

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

09-CR-00466 (BMC)

4 United States Courthouse  
Brooklyn, New York

5 -against-

December 20, 2018  
9:30 a.m.

6 JOAQUIN ARCHIVALDO GUZMAN LOERA,

7 Defendant.

8 -----x  
9 TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL  
10 BEFORE THE HONORABLE BRIAN M. COGAN  
11 UNITED STATES DISTRICT JUDGE  
BEFORE A JURY

12 APPEARANCES

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*Official Court Reporter*

TAPASCO - DIRECT - GOLDBARG

1 (In open court; jury not present.)

2 THE COURTROOM DEPUTY: All rise.

3 THE COURT: Good morning. Let's have the jury,  
4 please.

5 (Jury enters courtroom.)

6 THE COURT: Everyone be seated. Good morning,  
7 ladies and gentlemen.

8 THE JURY: Good morning.

9 THE COURT: We'll continue with the direct  
10 examination.

11 MS. GOLDBARG: May I inquire, Your Honor?

12 THE COURT: Yes.

13 MS. GOLDBARG: Thank you.

14 (Witness sworn.)

15 YEISON TAPASCO SUAREZ, called as a witness, having been first  
16 duly sworn/affirmed, was examined and testified as follows:

17 DIRECT EXAMINATION(Continued)

18 BY MS. GOLDBARG:

19 Q Good morning.

20 A Good morning.

21 Q Can you please remind the jury your title with the  
22 Colombian National Police, please.

23 A I am an officer as deputy superintendent.

24 Q And Officer Tapasco, how long have you been with the  
25 Sensitive Investigation Unit again?

TAPASCO - DIRECT - GOLDBARG

1 A Ten years.

2 Q And do you receive a financial stipend from the DEA for  
3 participating in this unit?

4 A Yes.

5 Q How much is that?

6 A \$200.

7 Q How frequently?

8 A Monthly. Every month.

9 Q Showing you what's in evidence as 506-22. Officer  
10 Tapasco, you testified yesterday that you were ordered to go  
11 to Ipiales, Narino.

12 Can you mark on the map where that is.

13 (Witness complies.)

14 Q Thank you. I believe before we left off you were talking  
15 about the plane that you were in that was about to land at the  
16 airport. Can you remind the jury what it is that you saw from  
17 the plane?

18 A Well, when we were about to land with my team, I observed  
19 a white truck with a tarp fleeing the area, the air strip and  
20 at the airport.

21 Q Now what did you do --

22 THE INTERPRETER: I'm sorry, the interpreter would  
23 like to correct herself. And a small plane.

24 BY MS. GOLDBARG:

25 Q What did you do when the plane landed?

## TAPASCO - DIRECT - GOLDBARG

1 A When I landed, I approached the truck, which was on the  
2 side of the airstrip in a green area. It was sort of stuck  
3 there.

4 Q Where was that truck in relation to the airstrip?

5 A Well, it was on the side of the airstrip, it was actually  
6 stuck there. It seems that when the driver was fleeing the  
7 scene it sort of went towards the green area and it got stuck  
8 there.

9 Q What happened when you approached the truck?

10 A Well, when I approached, the driver was right there, he  
11 was very scared, like scared. When I saw the back I saw  
12 containers. There was some blue and yellow containers there,  
13 was a large black hose and a motor pump.

14 Q Did you take -- were photographs taken of the items that  
15 you saw in the back of this truck?

16 A Yes, ma'am.

17 Q And for purposes of efficiency, were photos taken of the  
18 events that happened at the Ipiales Airport that day?

19 A Yes, ma'am.

20 MS. GOLDBARG: Your Honor, if I could have these  
21 identified, I believe without objection, I can move through  
22 them.

23 THE COURT: Okay.

24 MS. GOLDBARG: I'm going to do then in reverse  
25 order, hopefully slowly.

TAPASCO - DIRECT - GOLDBARG

1 Government's Exhibit 210-14. This is just for  
2 identification purposes now, then I will publish them.  
3 Government Exhibit 210-4; Government Exhibit 210-26. Sorry.  
4 Government Exhibit 210-25; government Exhibit 210-23;  
5 Government Exhibit 210-20; Government Exhibit 210-18.

6 MR. LICHTMAN: No objection.

7 MS. GOLDBARG: Still going.

8 MR. LICHTMAN: Still no objection.

9 MS. GOLDBARG: Government Exhibit 210-22; Government  
10 Exhibit 210-21; Government Exhibit 210-19; Government  
11 Exhibit 210-17; Government Exhibit 210-16; Government  
12 Exhibit 210-12; Government Exhibit 210-10; Government  
13 Exhibit 210-11; Government Exhibit 210-9; Government  
14 Exhibit 210-8; Government Exhibit 210-13; Government  
15 Exhibit 210-7; Government Exhibit 210-6; Government  
16 Exhibit 210-5; Government Exhibit 210-15; Government  
17 Exhibit 210-24; and finally Government Exhibit 210-14.

18 THE COURT: All right. Those are received.

19 (Government Exhibits 210-4 through 26, were received  
20 in evidence.)

21 BY MS. GOLDBARG:

22 Q Officer Tapasco, do you recognize all these photos we  
23 just showed on the screen?

24 A Yes, ma'am.

25 Q Let's start, and if we can publish this to the jury.

TAPASCO - DIRECT - GOLDBARG

1 (Exhibit published.)

2 Q Government Exhibit 210-14, can you explain to the jury  
3 what we're looking at here.

4 A That was the truck that was fleeing the place at the  
5 moment that we were approaching the airstrip to land.

6 Q Next moving on to Government Exhibit 210-24, what are we  
7 looking at in this photograph?

8 A That's what the truck had in the back. Those are the  
9 fuel containers, the hose and the motor pump.

10 Q Can I ask you, Officer Tapasco, to please circle the  
11 containers.

12 (Witness complies.)

13 Q What color were the containers?

14 A Blue and there was a small one that was yellow.

15 Q Could you please circle the small yellow container.

16 (Witness complies.)

17 Q You also mentioned that there was a hose there. Can you  
18 circle the hose that we see in this photograph.

19 (Witness complies.)

20 Q You also mentioned that there was a motor pump in there,  
21 can you show where it is that we're looking at the motor pump?

22 (Witness complies.)

23 Q Thank you.

24 Officer Tapasco, did you search the inside of the  
25 blue containers?

TAPASCO - DIRECT - GOLDBARG

1 A Yes, ma'am.

2 Q And what did you find inside?

3 A Fuel, gas.

4 MS. GOLDBARG: Just so the record reflects, he's  
5 circled a small circle around the yellow image in the  
6 forefront of the photograph, the hose is on the left-hand  
7 side, a smaller circle around the red motor pump and a larger  
8 circle around the blue containers.

9 Q Now after you searched the truck, what did you do next?

10 A Well after that with my team I went to where the small  
11 plane was parked.

12 Q And where was the small plane parked?

13 A Towards the back of the airstrip.

14 Q What did you do when you got to the small airplane?

15 A There I actually observed our surroundings.

16 Q For what purpose?

17 A Well, the purpose was to verify if there were any other  
18 people that might be involved in the case and also because of  
19 our own safety.

20 Q Did you find any other people around the plane?

21 A No.

22 Q So what did you do next?

23 A After that I went to the front of the plane to the cabin  
24 to search it.

25 Q Did you search the front of the plane?



TAPASCO - DIRECT - GOLDBARG

1 A Yes, ma'am.

2 Q What, if anything, did you find?

3 A Well, inside the cabin there were white bags that  
4 contained -- there were packages and the packages contained  
5 like potatoes, food, cookies, soda.

6 Q Did you search the rest of the plane?

7 A Yes, ma'am.

8 Q What did you find?

9 A In the back there were some gray and black bags.

10 Q What did you do with the bags?

11 A Together with my team we started unloading them from the  
12 aircraft and we put them aside.

13 Q How many gray and black bags did you find inside this  
14 small plane?

15 A Seventeen.

16 Q And after you unloaded the 17 bags from the small plane,  
17 what did you do next?

18 A From there I proceeded with my team to open them and to  
19 verify the content of each bag.

20 Q And what did you find inside of the bags?

21 A Inside there were some rectangular packages that were  
22 wrapped around with beige tape and the total was 403.

23 Q Now at this point in time, how many years had you been  
24 with the Sensitive Investigation Unit?

25 A At that time I had been there for six years.

1 Q And how many narcotics investigations approximately had  
2 you done up until that point?

3 A More or less approximately 80.

4 Q And had you seen packages like this before in those 80  
5 investigations that you had conducted?

6 A Yes, in all of them.

7 Q And what did this indicate to you?

8 A Well, because of the way in which the packages were the  
9 wrapping, the smell, the different characteristics that  
10 indicated to me that it was chlorohydrate of cocaine, cocaine  
11 chrlorohydrate rather.

12 Q Was a test conducted on any of those 403 packages?

13 A Yes.

14 Q What was the result of that analysis?

15 A It was positive for cocaine chlorohydrate byproduct.

16 Q Is that another way to say cocaine?

17 A Yes, that is the test, that's the preliminary test, it's  
18 called the standardized identification test, the PIPH that is  
19 performed by technicians.

20 Q In addition to the 403 packets, did you find anything  
21 else in these gray and black bags?

22 A Yes.

23 Q What did you find?

24 A In one of the bags there were 49 40-millimeter grenades,  
25 and three anti-tank RPG grenades.

1 Q I'd like to show and publish to the jury Government  
2 Exhibit 210-5 in evidence.

3 Can you explain to the jury what we're looking at  
4 here, Officer Tapasco?

5 A That was the small plane that was parked at the San Luis  
6 Airport which I searched.

7 Q Showing you 210-13. What are we looking at in this  
8 photograph?

9 A That's the cabin, the aircraft cabin.

10 Q What did you find inside the aircraft cabin?

11 A That is where we found the bag that contained all the  
12 groceries, the food, the potatoes, the cookies, the soda.

13 Q Can you please circle the white -- the bags that you were  
14 discussing that you found.

15 (Witness complies.)

16 MS. GOLDBARG: Let the record reflect he's marked a  
17 circle in between the two blue chairs.

18 Q Showing you Government Exhibit 210-6, what are we looking  
19 at in this photograph?

20 A That is the back of the small plane where the other bags  
21 were.

22 Q When you say the other bags, which ones are you referring  
23 to? If just circle it.

24 A The 17 bags that my team and I unloaded from the  
25 aircraft.

1 Q Showing you in evidence Government Exhibit 210-7, what  
2 are we looking at in this photograph?

3 A Well, here you have the small plane there and my team is  
4 there. I am there. We are conducting the investigation. You  
5 also have there the 17 bags and a container with fuel.

6 Q Officer Tapasco, could you circle where you are in this  
7 photograph, please.

8 (Witness complies.)

9 Q So you're the individual on the left-hand side?

10 A Okay.

11 Q Could you also circle one of the gray and black bags.

12 (Witness complies.)

13 Q And could you also circle the container that you found  
14 gas in.

15 (Witness complies.)

16 Q You circled the plastic item in the middle, where did you  
17 find that item?

18 A Plastic?

19 Q The container. I'm sorry.

20 A It was in the back, right here.(indicating)

21 Q In the back of what? I'm sorry.

22 A The back of the small plane.

23 Q Government Exhibit 210-8, what are we looking at there?

24 A That's one of the bags that we found in the back of the  
25 small plane.

1 Q Government Exhibit 210-9, what do we see in this  
2 photograph?

3 A Here you have three packages that were rectangular-shaped  
4 and you have the experts who are conducting the PIPH field  
5 test.

6 Q And how many of these rectangular packages again did you  
7 recover from the 17 bags?

8 A 403.

9 Q Government Exhibit 210-10, what are we looking at in this  
10 photograph?

11 A We can see the result here of the PIPH field test that  
12 the technicians had conducted.

13 Q How many tests were done?

14 A Three tests.

15 Q And in this photograph how many vials are we seeing?

16 A Two.

17 Q What are those two vials indicate?

18 A The one with the turquoise blue color indicates that's a  
19 positive field test for cocaine.

20 Q Can you circle that one.

21 (Witness complies.)

22 Q That would be the vial on the left-hand side?

23 A Yes.

24 Q And on the right-hand side what are we seeing there?

25 A That is one that gave a negative result for other drugs,

1 let's say, heroin or marijuana.

2 Q So what did this indicate to you?

3 A That the contents of the packages was cocaine.

4 Q And showing you Government Exhibit 210-12, what are we  
5 looking at in this photograph?

6 A We can see here the bag that contained the 49  
7 40-millimeter grenades and the three anti-tank RPG grenades.

8 Q What are we looking at specifically in this photograph?

9 A We can see here one of the anti-tank RPG grenades. When  
10 we pulled them out of the bag they came in individual plastic  
11 containers so we, before taking a photograph, removed the  
12 plastic container.

13 Q Could you please circle the RPG grenade that you found  
14 inside the bag.

15 (Witness complies.)

16 MS. GOLDBARG: Let the record reflect he circled the  
17 brown object at the bottom of the photograph.

18 Q So after you removed all of these items from the ground  
19 and from the plane, as we see in 210-7, what happens to these  
20 items?

21 A We emptied them completely. We proceeded to count them  
22 and then we proceeded to conduct the PIPH field test.

23 Q And afterwards what did you do with this evidence?

24 A Then later we placed them, along with my working group,  
25 on a pickup truck belonging to the institution. For security

1 reasons I went along with my working group to the headquarters  
2 of the anti-narcotics unit there in Narino.

3 Q What happened once you got to the anti-narcotics unit in  
4 Ipiales?

5 A There we, again, proceeded to do a counting of the items  
6 to verify the elements of proof.

7 Q Did you end up weighing the 403 packets that were found  
8 inside these bags?

9 A Yes.

10 Q What was the total amount of the weight?

11 A 423 kilograms.

12 Q Showing you Government's Exhibit 210-16, what are we  
13 looking at in this photograph?

14 A We can see there the 17 bags that we found in the back of  
15 the small plane.

16 Q Where are these bags located, is this at the  
17 anti-narcotics office?

18 A Yes, the anti-narcotics office.

19 Q Looking at Government's Exhibit 210-17, what are we  
20 looking at in this photograph?

21 A We can see here the 403 packages with the substance,  
22 drugs, the three RPG grenades, and the 49 40-millimeter  
23 grenades.

24 Q Showing you Government Exhibit 210-19, what are we  
25 looking at in this photograph?

TAPASCO - DIRECT - GOLDBARG

1 A We can see here the 49 40-millimeter grenades, one of the  
2 RPG grenades, and some of the kilos of the substance the  
3 drugs.

4 Q Officer Tapasco, could I ask you to circle one of the  
5 40-millimeter grenades that we see in this photograph.

6 (Witness complies.)

7 Q That's a green base and a silver/gold top on the  
8 right-hand side of the photograph.

9 Could you circle one of the RPGs.

10 (Witness complies.)

11 Q And could I ask you to circle one of the packages of  
12 cocaine.

13 (Witness complies.)

14 MS. GOLDBARG: So you circled a rectangular tan  
15 package on the left-hand side and the RPG would be the long  
16 brown object on the bottom, for the record.

17 Q Moving on to Government Exhibit 210-21, what are we  
18 looking at in this photograph?

19 A We can see here again the experts conducting the second  
20 PIPH field test at the anti-narcotics base.

21 Q What was the result of that field test?

22 A It was preliminarily positive for cocaine and byproducts.

23 Q Moving on to Government Exhibit 210-22, what do we see  
24 here?

25 A We can see here the 49 40-millimeter grenades and the



1 three anti-tank RPG grenades.

2 Q Government Exhibit 210-18, what are we look at in this  
3 photograph?

4 MR. LICHTMAN: Judge, objection, 403.

5 THE COURT: I agree. Do we need so much of this, so  
6 much detail?

7 MS. GOLDBARG: It will tie up to the next witness,  
8 Your Honor.

9 THE COURT: Don't you have enough to tie up to the  
10 next witness? We have the RPG in three other pictures, we  
11 need another picture?

12 MS. GOLDBARG: I will do it through the other  
13 witness, Your Honor.

14 THE COURT: Just to shorten it just because it's  
15 cumulative.

16 MS. GOLDBARG: Yes, Your Honor.

17 Q Showing you Government Exhibit 210-25, what are we  
18 looking at here.

19 A That's the container with fuel that we found in the back  
20 of the small plane.

21 Q And, lastly, for photographs 210-26.

22 A That's the motor pump that we found in the back of the  
23 truck.

24 Q Officer Tapasco, did you check to see if there was a  
25 flight plan for this aircraft?

TAPASCO - DIRECT - GOLDBARG

1 A Yes.

2 Q Was there one?

3 A No.

4 Q In your experience, have you conducted a search of this  
5 nature previously?

6 A Yes.

7 Q And the motor pump and the hose and the container of gas,  
8 what did that indicate to you?

9 MR. LICHTMAN: Objection.

10 THE COURT: A little more.

11 BY MS. GOLDBARG:

12 Q How many times have you seen items of the nature in  
13 Government Exhibit 210-24?

14 A Five or six times, more or less.

15 Q Were these also narcotics investigations?

16 A Yes.

17 Q Does your investigation of narcotics involve things  
18 beyond just the production of cocaine?

19 A Yes.

20 Q Does it involve also how cocaine is transported in  
21 various methods?

22 A Yes.

23 Q Does it also include how planes were sometimes used to  
24 transport cocaine?

25 MR. LICHTMAN: Objection.

TAPASCO - DIRECT - GOLDBARG

1 THE COURT: Overruled.

2 A Yes.

3 Q Based on that experience, what conclusion did you draw  
4 when you saw these items in Government Exhibit 210-24?

5 MR. LICHTMAN: Objection.

6 THE COURT: Overruled.

7 A This truck was used to refuel the small plane so that it  
8 could arrive to its destination with the drugs.

9 Q Now after counting and retesting all of the items, what,  
10 if anything, did you do with the three RPGs and 49  
11 40-millimeter grenades that we see in Government's  
12 Exhibit 210-22?

13 A Well, after the elements are counted, they are labeled,  
14 they are given a chain of custody and they are then given to  
15 an explosive technician so that he can investigate the status  
16 of the articles, whether they are operational.

17 Q Did you provide these items in Government Exhibit 210-22  
18 to the explosives technician?

19 A Yes, ma'am.

20 Q Was an analysis conducted of those items?

21 A Yes.

22 Q Now going back to the 403 packages of cocaine that you  
23 found, what happened to those items?

24 A A PIPH field -- test was requested from the technicians  
25 for those items, 23 samples were taken to be sent to the

1 criminal investigation division of DIJIN.

2 Q Was a full analysis of those samples conducted?

3 A Yes.

4 Q Showing you Government Exhibit 210-4, what are we looking  
5 at in this item? Is this the results of the lab analysis?

6 A Yes.

7 Q What was the result of the analysis conducted?

8 A The result was positive for cocaine.

9 Q What happened to the 403 packages of cocaine?

10 A Later, and in accordance with Colombian law, we  
11 coordinated with the Attorney General's office in Ipiales to  
12 proceed to the destruction of the drugs.

13 Q Were you present when the drugs were destroyed?

14 A Yes.

15 Q And why were the drugs destroyed?

16 A It is the protocol that we have to follow when we conduct  
17 seizures in Colombia. The seizure is conducted, then PIPH  
18 tests are conducted, 23 random samples are taken from the  
19 packages to be sent to the DIJIN lab to have a final  
20 certification, and then later we proceed to the destruction of  
21 the substance for reasons of safety and health.

22 Q How were these 403 packages of cocaine destroyed?

23 A They were destroyed in an oven, in an oven that is used  
24 to make bricks and tiles.

25 Q Was anything done to the packages of cocaine before they

1 were put into this special oven?

2 A Well, we have our protocol which dictates that we conduct  
3 another preliminary PIPH test at the destruction site in order  
4 to confirm and verify that we are in fact destroying the drugs  
5 and that they were not exchanged or switched.

6 Q And was that carried out in this case?

7 A Yes, ma'am.

8 Q After the destruction of the drugs, did you have any role  
9 in the larger investigation in this case?

10 A No.

11 MS. GOLDBARG: The government has no further  
12 questions.

13 THE COURT: All right. Cross examination.

14 MR. LICHTMAN: Judge, very briefly. I can do it  
15 here.

16 CROSS-EXAMINATION

17 BY MR. LICHTMAN:

18 Q Officer, you had mentioned that you had joined the SIU in  
19 2008.

20 A Yes, sir.

21 Q And the SIU stands for Sensitive Investigative Unit?

22 A Yes.

23 Q And the SIU was actually created and funded and trained  
24 by the American DEA?

25 A Yes.

1 Q And you've been with the SIU since from 2008 until today?

2 A Yes.

3 Q And you said you were not involved in the greater  
4 investigation pertaining to this seizure that you just  
5 testified to.

6 A I don't understand the question.

7 Q Did you interface with the American prosecutors in  
8 connection with this investigation?

9 MS. GOLDBARG: Objection, Your Honor, may we  
10 approach.

11 THE COURT: I'll sustain the objection.

12 BY MR. LICHTMAN:

13 Q You've met with the prosecutors in this case pertaining  
14 to this investigation?

15 MS. GOLDBARG: Objection, Your Honor, may we  
16 approach.

17 THE COURT: Yes. Let's have a the sidebar.

18 (Sidebar conference.)

19 (Continued on the next page.)

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SIDEBAR CONFERENCE

1 THE COURT: Go ahead.

2 MS. GOLDBARG: It may be semantics, Your Honor, but  
3 the witness testified that he was involved in this seizure not  
4 the investigation. And so when Mr. Lichtman is asking about  
5 his involvement in the investigation, it seems that it's vague  
6 and confusing.

7 THE COURT: I found it confusing because I couldn't  
8 tell if you were talking about the prosecution of this case or  
9 some other case or the -- what is the investigation that  
10 you're going for?

11 MR. LICHTMAN: I'm trying to find out how far his  
12 involvement was in this investigation, because it's one thing  
13 to say that they're not involved on a larger investigation,  
14 but this is only part of that investigation for this case.  
15 I'm trying to nail down what his involvement was in connection  
16 with the Guzman case.

17 MS. GOLDBARG: Your Honor, I believe that the  
18 officer testified yesterday that this was not his case, he was  
19 told to go to Ipiales because he was around and a more  
20 experienced person, but it was not his case. He just  
21 testified he didn't have a role in the larger investigation.

22 THE COURT: I think Mr. Lichtman is entitled to  
23 probe that a little bit and confirm that that is, in fact, the  
24 case by asking a more detailed question than you asked on  
25 direct, but the question you asked is not it. Because the

SIDEBAR CONFERENCE

1 American prosecutors, the investigation, we don't know there  
2 were American prosecutors involved in this particular seizure,  
3 there's nothing to indicate that.

4 MR. LICHTMAN: Well, not involved in the seizure,  
5 but obviously in connection with what occurred after the  
6 seizure.

7 THE COURT: Well, I think you're going have to be  
8 more specific in your question. The form is wrong. He  
9 doesn't have to take what he says as true, he can probe and  
10 say, well, what else did you do in connection with this  
11 seizure, if anything, or however you want to phrase it but not  
12 the way you did phrase it.

13 MR. LICHTMAN: All right.

14 MS. GOLDBARG: Correct. I would note, however, to  
15 avoid another sidebar bring to the Court's attention in your  
16 order where the government moved in limine to preclude  
17 cross-examination on sensitive investigative techniques,  
18 docket 390, paragraph 33. The Court did grant the  
19 government's motion to preclude anything --

20 THE COURT: I don't see him going there.

21 MR. LICHTMAN: I don't know what the investigative  
22 techniques would have been.

23 THE COURT: Wait, we're just trying to find out what  
24 else, if anything, he had to do with this seizure and the  
25 cocaine relating to it.



SIDEBAR CONFERENCE

1 MS. GOLDBARG: Okay.

2 THE COURT: Right? That's what you --

3 MR. LICHTMAN: Yeah, obviously he's been interviewed  
4 by these prosecutors, that's just the limit of it.

5 THE COURT: That's a separate area of inquiry, I  
6 couldn't tell which one you were going to. Does he do  
7 anything else with the seizure, was he involved in any other  
8 aspect? Fine, you can ask him about that. You can then ask  
9 him about did the prosecutors prepare him for his testimony in  
10 this case, that's a separate thing. Both of those are okay if  
11 you phrase them right.

12 MR. LICHTMAN: That's fine.

13 MS. GOLDBARG: Thank you.

14 (End of sidebar conference.)

15 (Continued on the next page.)

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TAPASCO - CROSS - LICHTMAN

1 (In open court.)

2 MR. LICHTMAN: Thank you, Judge.

3 Q Sir, with regard to this seizure which occurred on  
4 January 30th, 2014; is that correct?

5 A Yes.

6 Q Did your work in connection with this investigation --  
7 excuse me, in connection with this seizure, did it begin and  
8 end on that day?

9 A On the 31st.

10 Q Of January 2014, the next day?

11 A Yes, the next day.

12 Q Then you had no other -- you did no other work in  
13 connection with that seizure other than meeting with  
14 prosecutors on this case about?

15 A With prosecutors?

16 Q These prosecutors.

17 A Like on what date or?

18 Q Any time after January -- my bad. Any time after  
19 January 31st, 2014, did you have -- did you do anything in  
20 connection with this seizure?

21 A I guess you are asking an open question, but I mean what  
22 things do you think I would have been able to do afterwards?

23 Q That's what I'm asking you, other than meet -- you met  
24 with these prosecutors in October 2017 to prepare your  
25 testimony for today?

TAPASCO - CROSS - LICHTMAN

1 A Oh, yes, yes.

2 Q And how many times did you meet with them?

3 A Twice in Bogota and once here.

4 Q And is that the sum total of all of your work in  
5 connection with this January 30th, 2014 seizure?

6 A Yes.

7 Q So you worked on January 30th and 31st, 2014 in  
8 connection with this seizure, you met with the -- that was a  
9 yes, I'm sorry.

10 A Yes.

11 Q You met with the prosecutors and agents in this case you  
12 say two times in Bogota?

13 A Yes.

14 MS. GOLDBARG: Objection.

15 Q You met with them twice in New York?

16 MS. GOLDBARG: Objection, Your Honor. Asked and  
17 answered.

18 THE COURT: Sustained.

19 BY MR. LICHTMAN:

20 Q And that's it, you had no other --

21 MS. GOLDBARG: Objection, Your Honor.

22 Q -- dealings?

23 THE COURT: I'll let him answer.

24 A No.

25 BY MR. LICHTMAN:

1 Q Aware of any allegations of corruption in the SIU in  
2 connection with this case?

3 MS. GOLDBARG: Objection, Your Honor.

4 THE COURT: Sustained.

5 MR. LICHTMAN: No further questions.

6 THE COURT: Any redirect?

7 MS. GOLDBARG: No, Your Honor.

8 THE COURT: You may step down. Thank you very much.

9 (Witness excused.)

10 THE COURT: The government may call its next  
11 witness.

12 MS. GOLDBARG: Yes, Your Honor, the government calls  
13 Samuel Suarez.

14 (Continued on the next page.)  
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SUAREZ - DIRECT - MS. GOLDBARG

1 THE COURTROOM DEPUTY: Please raise your right hand.

2 (Witness takes the witness stand.)

3 SAMUEL SAUL SUAREZ SARMIENTO, called as a witness, having been  
4 first duly sworn/affirmed through the interpreter, was  
5 examined and testified as follows:

6 THE WITNESS: I do.

7 THE COURTROOM DEPUTY: Please state and spell your  
8 name for the record.

9 THE WITNESS: Samuel, S-A-M-U-E-L. Saul, S-A-U-L.  
10 Suarez, S-U-A-R-E-Z. Sarmiento, S-A-R-M-I-E-N-T-O.

11 THE COURT: All right. You may inquire.

12 MS. GOLDBARG: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. GOLDBARG:

15 Q Good morning.

16 A Good morning.

17 Q Who do you work for?

18 A For the Colombia National Police.

19 Q How long have you worked for the Colombia National  
20 Police?

21 A Twenty-four and a half years.

22 Q What division within the Colombia National Police do you  
23 work?

24 A Judicial police and INTERPOL.

25 Q Is that known by the initials DIJIN, D-I-J-I-N?

SUAREZ - DIRECT - MS. GOLDBARG

1 A DIJIN, yes.

2 Q What city are you currently assigned to?

3 A Pasto, Narino.

4 Q Showing you what's in evidence as Government  
5 Exhibit 506-22.

6 Can you please circle where it is that you see  
7 Pasto, Narino?

8 A (Witness complying.)

9 Q And where is Narino in relation to Colombia?

10 A The south of Colombia, right at the border with Ecuador.

11 Q Is your office in Narino also called DIJIN, D-I-J-I-N?

12 A Yes.

13 Q What is it called?

14 A The criminal investigation sectional, S-I-J-I-N.

15 Q What's the difference between DIJIN and SIJIN?

16 A DIJIN is the director -- is the national directory.

17 SIJIN is at a regional level, at the level of the  
18 department.

19 Q How long have you been assigned to Pasto, Narino?

20 A Eleven years.

21 Q What unit are you currently assigned to?

22 A To the anti-explosives and antiterrorist unit.

23 Q Is that known by any initials?

24 A Yes. UNATE.

25 Q Is that U-N-A-T-E?

SUAREZ - DIRECT - MS. GOLDBARG

1 A Correct.

2 Q What is your current position with UNATE?

3 A I'm the unit chief.

4 Q And what is your current rank with the Colombia National  
5 Police?

6 A I am the chief superintendent.

7 Q How long have you been the unit chief of UNATE?

8 A Eleven years.

9 Q Chief Suarez, did you receive any specialized training to  
10 become a member of UNATE?

11 A Yes.

12 Q How long was that training?

13 A One year.

14 Q What did you learn in that year of training?

15 MR. PURPURA: We accept his expertise.

16 THE COURT: She may want to bring it now anyway.

17 MS. GOLDBARG: I do.

18 THE COURT: Thank you anyway.

19 A Well, I learned how to recognize explosives. What kind  
20 of safety measures to take with explosives. All the  
21 techniques regarding explosives. All the activities  
22 post-explosions. And how to neutralize explosives.

23 Q What was the name of this course?

24 A Explosives course.

25 Q And did you receive a title as a result of completing

1 this course?

2 A Yes. Professional technician in explosives.

3 Q And what does this title allow you to do?

4 A Everything that deals with explosives. Cases that deal  
5 with explosives, and all of the studies that deal with the  
6 technical explosives materials.

7 Q In what year did you receive this training and this  
8 title?

9 A 2004.

10 Q And since 2004, how many explosives investigations have  
11 you been involved in?

12 A Approximately a hundred to 120.

13 Q You testified earlier, Chief Suarez, that you are the  
14 chief of UNATE. What are your responsibilities there?

15 A Well, I have -- under me I have two more colleagues, two  
16 technicians. And I have to take care of all of the  
17 requirements that are related to explosives.

18 Q Drawing your attention specifically to January 30th,  
19 2014.

20 Were you working on that day?

21 A Yes.

22 Q Where did you start your workday?

23 A At the explosives office with the criminal investigations  
24 section in Narino.

25 Q In what city?



1 A Pasto.

2 Q On the map in front of you, Government Exhibit 506-22,  
3 can I ask you to circle Pasto again, please?

4 A (Witness complying.)

5 Q Chief Suarez, were you ordered to go to another city for  
6 an investigation on that day?

7 A Yes.

8 Q Where did you go?

9 A To the municipality of Narino.

10 Q What city?

11 A Ipiales.

12 Q Can I ask you to circle Ipiales on the map, please.

13 A (Witness complying.)

14 Q Did you go to Ipiales that day?

15 A Yes.

16 Q How far is Pasto to Ipiales?

17 A Two hours by car.

18 Q When you arrived in Ipiales, where did you go?

19 A To the anti-narcotics unit with the National Police.

20 Q And what happened when you arrived at the anti-narcotics  
21 unit?

22 A I waited for approximately two hours, and later on some  
23 colleagues from the National Police came. They were in  
24 uniform, as well as some colleagues in the sectional office,  
25 and they all came with some bags.

1 Q Can you describe the bags that they were carrying?

2 A They were some fabric-made bags and the color was gray  
3 and black.

4 Q Showing you what's already in evidence as Government  
5 Exhibit 210-16.

6 What are we looking at here?

7 (Exhibit published.)

8 A Those are the gray bags.

9 Q Are these the same ones that you saw the officers  
10 bringing in to the anti-narcotics office that day?

11 A Yes.

12 Q What did you observe happen with these bags?

13 A Then later in the same room, they extracted some  
14 materials from inside the bag.

15 Q Did you observe that yourself?

16 A Yes.

17 Q Showing you what's in evidence as Government  
18 Exhibit 210-19.

19 Can you tell us what we're looking at here?

20 (Exhibit published.)

21 A Some grenades.

22 Q Were any of these items of interest to you?

23 A Yes, they are grenades.

24 Q How many different types of grenades are we looking at  
25 here in Government Exhibit 210-19?

1 A Two types.

2 Q What types of grenades are we looking at?

3 A RPG grenades and 40-millimeter grenades.

4 Q On the screen next to you, can I ask you to circle the  
5 RPG grenades?

6 A (Witness complying.)

7 Q That's the item listed on the chart.

8 I also ask you to circle one of the 40-millimeter  
9 grenades.

10 A (Witness complying.)

11 Q That would be the green and gold item right above it.

12 Who provided these items to you?

13 A Patrolman Yeison Tapasco.

14 Q Showing you what's in evidence Government Exhibit 210-22.

15 What did you do with these items?

16 (Exhibit published.)

17 A I received them to conduct a technical study.

18 Q What do you mean by that?

19 A To verify that the articles came inside the original  
20 items from the factory. And also to verify that they were --  
21 they were operational.

22 Q In this Exhibit 210-22, what are we looking at here?

23 A We see three RPG grenades and 49 40-millimeter grenades.

24 MR. PURPURA: Your Honor, we offer a stipulation  
25 they are what he says they are. They were operable.

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1 THE COURT: Yes, I think everyone in the courtroom  
2 knows what these are. Let's go on to something else.

3 MS. GOLDBARG: Thank you.

4 BY MS. GOLDBARG

5 Q Can you described what you did next, please?

6 A After receiving them properly packed, labeled and with  
7 the chain of custody, I proceeded to photograph them, measure  
8 them, weigh them. Then to conduct the test to make sure that  
9 they were, in fact, grenades.

10 Q What do you mean by that, sir?

11 A That they contain all their parts and that they were able  
12 to be operated.

13 Q As a result of the inspection, let's start with the three  
14 RPGs.

15 What did your analysis conclude?

16 A That they were operational and that they came originally  
17 from the factory.

18 Q What do you mean that they were operational?

19 A That they are lethal weapons and that they contain all  
20 the necessary parts to work.

21 Q Showing you Government Exhibit 210-20.

22 What are we looking at here?

23 (Exhibit published.)

24 A A 40-millimeter grenade.

25 Q And then looking at 210-23, what are we looking at in

1 this photograph?

2 (Exhibit published.)

3 A The bottom part of the grenade where we can see the  
4 letters "IM".

5 Q Have you seen this type of grenade before?

6 A Yes.

7 Q On how many occasions?

8 A On many occasions since they are -- they are fabricated  
9 in Colombia. They are by Indumil.

10 Q What is Indumil, I-N-D-U-M-I-L?

11 A Colombian military industry.

12 Q So what does that indicate to you when you see those  
13 initials?

14 A That they have been -- that they were made in Colombia.

15 Q What analysis did you do on these 40-millimeter grenades?

16 A That they had all their components originally from the  
17 factory, and that they were operational.

18 Q Were you able to determine anything about the explosive  
19 material within the grenade?

20 A No.

21 Q Now, after you conducted this analysis, what did you do  
22 next?

23 A Then later the technical study was delivered to Patrolman  
24 Yeison Tapasco.

25 Q And what happened to the weapons next?

SUAREZ - DIRECT - MS. GOLDBARG

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1 A I transported them to Pasto where there's a special place  
2 to store explosive materials.

3 Q And after these were stored, what did you do next?

4 A Then later we -- a previously given order by the  
5 prosecutor, we proceeded to their destruction.

6 Q Did you personally participate in the destruction of  
7 these grenades?

8 A Yes.

9 Q And were photographs taken of that destruction?

10 A Yes.

11 MS. GOLDBARG: Showing you for identification  
12 purposes only, Government Exhibit 210-2.

13 MR. PURPURA: No objection.

14 THE COURT: Received.

15 (Government Exhibit 210-2, was received in  
16 evidence.)

17 (Exhibit published.)

18 Q Can you describe the process of destroying -- let's start  
19 with this:

20 What were you destroying first?

21 A The RPGs.

22 Q And where did you take these items to have them  
23 destroyed?

24 A To a stone quarry, which is located in the outskirts of  
25 the city of Pasto.

SUAREZ - DIRECT - MS. GOLDBARG

1 Q And why did you take them there?

2 A Because it is an uninhabited place that -- which  
3 represents no risk to the population.

4 Q Now, you said that you destroyed the RPGs first.  
5 How many RPGs did you find again?

6 A Three.

7 Q Okay. And did you destroy all three of them together or  
8 individually?

9 A Individually.

10 Q Can you describe the process.

11 A We attached to each RPG a detonating wire. We attached  
12 to that a fuse, a non-electrical fuse with one meter of a  
13 safety wick. You light up the wick, the personnel moves away  
14 from that. Sometime later, you hear a strong explosion  
15 verifying that the material has been described.

16 THE COURT: 401 402 objection?

17 MR. PURPURA: Yes.

18 THE COURT: Short. I see the relevance, but it's...

19 MS. GOLDBARG: Yes, Your Honor.

20 Let's publish to the jury 210-2.

21 Q Can you tell us what the three photos that we're looking  
22 at here quickly?

23 (Exhibit published.)

24 A The RPGs, each one of them at the moment of their  
25 destruction.

SUAREZ - DIRECT - MS. GOLDBARG

1 Q Now, you mentioned that you heard an explosion. Did you  
2 go back to this site?

3 A Yes. We verified that in fact the material had been  
4 destroyed and that it was operational.

5 Q How were you able to determine that these were  
6 operational by looking at the explosion site?

7 A Because they were completely destroyed and no -- nothing  
8 of the material was found.

9 Q Going to the first page of 210-2.

10 What was the next thing that was destroyed?

11 (Exhibit published.)

12 A The 49 40-millimeter grenades.

13 Q And we're looking at nine photographs on this page.

14 What are we looking at here?

15 A The groups of five grenades each that we put together for  
16 their destruction.

17 Q And did you follow the same process for destroying all of  
18 these groups as you did with the RPGs?

19 A Correct.

20 Q And did you go back to the site after they exploded?

21 A Correct.

22 Q And what did you observe when you went back to each of  
23 these sites?

24 A No trace of the material was found, since it had been  
25 completely destroyed, verifying that they had been



SUAREZ - DIRECT - MS. GOLDBARG

1 operational.

2 Q Showing you the second page.

3 Chief Suarez, did you have any other involvement in  
4 this investigation after these items were destroyed?

5 A No.

6 MS. GOLDBARG: The government has no further  
7 questions, Your Honor.

8 THE COURT: All right.

9 Cross-examination?

10 MR. PURPURA: Chief Suarez welcome. No questions.

11 THE COURT: Okay.

12 All right. You may step down.

13 Thank you very much.

14 (Whereupon, the witness was excused.)

15 THE COURT: Why don't we take our morning break now.  
16 Ladies and gentlemen, we'll come back in 15 minutes at 11:10.

17 Please don't talk about the case.

18 (Jury exits the courtroom.)

19 THE COURT: Okay, 11:10.

20 (Whereupon, a recess was taken at 10:55 a.m.)

21 THE COURTROOM DEPUTY: All rise.

22 THE COURT: Please bring in the jury.

23 (Jury enters the courtroom.)

24 THE COURT: All right. Be seated, please.

25 Government's next witness.

VELASQUEZ ARDILA - DIRECT - MR. FELS

1 MR. FELS: Thank you, Your Honor.

2 The government calls Humberto Velasquez Ardila.

3 THE COURTROOM DEPUTY: Please raise your right hand.

4 (Witness takes the witness stand.)

5 **HUMBERTO VELASQUEZ ARDILA**, called as a witness, having been  
6 first duly sworn/affirmed through the interpreter, was  
7 examined and testified as follows:

8 THE WITNESS: Yes, I do.

9 THE COURTROOM DEPUTY: Please state and spell your  
10 name for the record.

11 THE WITNESS: Humberto Velasquez Ardila. Humberto,  
12 H-U-M-B-E-R-T-O. Velasquez, V-E-L-A-S-Q-U-E-Z. Ardila,  
13 A-R-D-I-L-A.

14 THE COURTROOM DEPUTY: Please be seated.

15 THE COURT: All right. Please proceed.

16 MR. FELS: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. FELS:

19 Q Good morning, Mr. Velasquez.

20 A Good morning.

21 Q Mr. Velasquez, for whom do you work?

22 A I work for Colombia immigration.

23 Q And what's the official title of your position?

24 A I am the national immigration control subdirector.

25 MR. FELS: Your Honor, I think the microphone may

VELASQUEZ ARDILA - DIRECT - MR. FELS

1 not be on.

2 THE COURTROOM DEPUTY: One moment.

3 (Pause.)

4 BY MR. FELS:

5 Q I think you said you were the subdirector, and then I  
6 couldn't hear.

7 A Okay. So I am the immigration control subdirector. At  
8 the national level. My responsibility includes 42 different  
9 exit and entry points in the country.

10 Q And, sir, where are you based out of?

11 A In Bogota, Colombia.

12 Q You came to New York to testify today?

13 A Yes, sir.

14 Q Now, you said that your responsibilities are over these  
15 ports.

16 What do you mean by that?

17 A I am in charge of regulations and writing guidelines  
18 regarding the exit and the entry of any citizen that is  
19 Colombian citizen or a foreign national who comes into our  
20 country or who leaves our country.

21 Q Sir, is there some sort of records kept of entrances and  
22 exits into your country of Colombia?

23 A Yes. Yes. Every person, every citizen who comes into  
24 the country or who leaves the country generates a record. We  
25 keep digital databases which are available to law enforcement

1 or users.

2 Q And do those records date back all the way to 2003?

3 A Well, actually, they started long before. We used to  
4 work for DAS, which is the security administrative division.  
5 And we could probably keep records still from 1995.

6 Q Okay. So in other words, the period of time between 2003  
7 and 2012 would be among the digital records that your agency  
8 maintains; is that correct?

9 A Yes.

10 Q And are these records, these digital records of the  
11 comings and goings of Colombian citizens, maintained within  
12 the ordinary course of business for your agency?

13 A Yes. We collect and we have a permanent custody of said  
14 records.

15 Q Now, can you explain to the jury how, do these records  
16 get generated when there's a voyage?

17 A When a traveler arrives to an immigration control post  
18 where there are immigration officers who work for my office,  
19 immigration control, they must present a travel document,  
20 usually a passport.

21 And from there, we extract information, electronic  
22 information, usually the passport has a chip and it can be  
23 read mechanically. And this information is compared vis-a-vis  
24 other databases that belong to judicial records, INTERPOL and  
25 administrative records, and if there is no hit, then we

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1 maintain them in our databases.

2 Q I see. Now, let's talk a little bit and run through some  
3 different scenarios, please.

4 Let's say that you have a traveler who is using a  
5 Colombian passport and travels from Colombia to Panama  
6 directly. What kind of record would you generate regarding  
7 that trip?

8 I'm sorry, within your migratory records.

9 A So what we would include is the first name, the middle  
10 name, the last names. The ID number. We would include the  
11 country of origin, or rather the place of origin of that  
12 flight, and the immediate final destination for that flight.  
13 And we would say that that person is emigrating, meaning  
14 leaving the country.

15 Q Okay, let me change it slightly.

16 Let's say that instead of staying in Panama, they  
17 use a different flight on a different airline to fly to  
18 another country. Let's say, for example, Mexico.

19 Would your records keep a record to show that they  
20 went all the way to Mexico or just to Panama?

21 MR. LICHTMAN: Objection.

22 THE COURT: Overruled.

23 A We would only have a record that the person made it to  
24 Panama. The other information we could not have.

25 Q Okay. Let me give you another question in that same

1 vein.

2 Let's say that your Colombian citizen, once in  
3 Mexico, decides to travel to another country, say Madrid --  
4 Spain.

5 Would your migratory records note the travel between  
6 Mexico and Spain where there was no stop in Colombia?

7 A No. For a flight from Mexico to Spain, we would not be  
8 able to have access to that information.

9 Q Okay. I'm going to show you, just for the witness only,  
10 Your Honor, a document that's been identified as Government  
11 Exhibit 801.

12 And I will stipulate that some information relating  
13 to a cedula number and dates of birth has been blacked out for  
14 identification purposes.

15 Do you recognize this document?

16 A Yes. It's an official and ordinary record that Colombian  
17 immigration provides to certain citizens and users.

18 Q Now, can you read for whom this is a migratory record of,  
19 which Colombian citizen?

20 A It corresponds to Jorge Milton Cifuentes Villa.

21 Q And for which dates is there a record of Mr. Cifuentes  
22 Villa's travel?

23 A The records that were researched pertain to the period  
24 from February 1st, 2003 to November 30th, 2012, and included  
25 78 trips.

VELASQUEZ ARDILA - DIRECT - MR. FELS

1 Q And, sir --

2 MR. FELS: At this point, Your Honor, we move to  
3 introduce Government Exhibit 801?

4 MR. LICHTMAN: No objection.

5 THE COURT: Received.

6 (Government Exhibit 801, was received in evidence.)

7 MR. FELS: And published to the jury.

8 (Exhibit published.)

9 Q So this is the migratory record that you were discussing  
10 for Jorge Milton Cifuentes Villa?

11 A Yes, sir.

12 Q Okay. And, again, Government Exhibit 801, I want to just  
13 give you one example to walk through so you can help the jury  
14 understand this document, okay?

15 And I apologize for the small writing. I'll try to  
16 make it as large as I can.

17 The first column obviously it says "nombres".

18 And what does this column represent, this first  
19 column?

20 A The name. The identity of the traveler.

21 Q Okay. The next column "fecha," and I'm having a hard  
22 time reading it, let's see if I can blow it up. "Fetcha de  
23 ahe."

24 Did I say that right?

25 A Yes. And we first indicate the day, then the month, then

1 the year.

2 Q Okay, and so what is this? What does this represent?

3 A The day in which the trip was taken.

4 Q Okay, now the next column here, it says "E/I".

5 What does this represent?

6 A E represents that the trip was taken out of Colombia.

7 And the I represents that the trip was arriving in Colombian  
8 territory.

9 Q Okay. And then this next column here, again, not so easy  
10 to read, but "destino." And maybe blow it up.

11 THE COURT: She can see it.

12 A Yes, sir, affirmative.

13 Q So what does this column designate?

14 A Well, that is the city to which the flight is going to,  
15 or as well, it indicates the places where -- the last place  
16 where that flew into the country.

17 Q All right, so let's use this, these first two as an  
18 example. So you can help us interpret these records.

19 So what can you tell us, just based on the  
20 information that you see in these first two rows of Government  
21 Exhibit 801?

22 A In the first line you have that Mr. Jorge Milton flew out  
23 of the country on February 16th, 2003, with a final  
24 destination of Mexico. Meaning Mexico City.

25 Q Now, you say Mexico City. How do you know that it's



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1 Mexico City?

2 A From Colombia there are only two flights that go into the  
3 country of Mexico. One goes to Mexico City and the other one  
4 goes to Cancun. So if it were a flight that goes to Cancun,  
5 it would then indicate Cancun.

6 Q I see. Now, let's take a look at the second column.

7 How can we interpret what's happening in this  
8 voyage?

9 A Mr. Cifuentes Villa arrives in Colombia on June 4th, 2003  
10 from a flight that came directly from Panama.

11 Q And do we know how Mr. Cifuentes Villa got from Mexico to  
12 Panama?

13 A It's not possible to know it from my -- my entity.

14 Q Okay. So -- and the reason for that is because of what  
15 you said earlier?

16 A Yes. Because the records generated for the immediate  
17 destination of that flight.

18 Q So in other words, if he flies from Mexico at some point  
19 to Panama, that wouldn't show up on your records, correct?

20 A It would not show.

21 Q Okay. I just want to move this column all the way to the  
22 right just to talk about the last column here. This last  
23 column reads, which it's hard to read, but can you tell us  
24 what is being represented in these columns, the last column?

25 A The heading is PCM, which means the migratory control

VELASQUEZ ARDILA - CROSS - MR. LICHTMAN

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1 site.

2 So this person traveled from the Bogota airport.

3 The first trip he made from the Bogota airport. And came back  
4 through the Medellin airport.

5 Q Thank you.

6 MR. FELS: I have no further questions.

7 THE COURT: All right. Any cross?

8 MR. LICHTMAN: Very brief.

9 CROSS-EXAMINATION

10 BY MR. LICHTMAN

11 Q Good morning, sir.

12 If I can give you another scenario. Let's say that  
13 Jorge Cifuentes Villa had travel documents that were not in  
14 his name. Have you heard of such a thing where people will  
15 travel into and out of your country carrying travel documents  
16 that are real but are not in their actual name?

17 A That's possible.

18 Our agency, though, has expert officers who could  
19 detect that during an interview. But that's a possible case.

20 Q You have expert officers that you use to detect if  
21 someone is traveling under false documentation?

22 A Yes. They are expert rethologists (sic), experts in  
23 documents, and experts in fingerprints. And the same way  
24 currently the experts compare the information from the chip to  
25 the information that is visual, that you can see.

VELASQUEZ ARDILA - CROSS - MR. LICHTMAN

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1 Q These are safeguards, but you don't believe that you  
2 catch every single person that travels into and out of your  
3 country when they're carrying fake documentation; do you?

4 A There is always the risk -- a risk margin that a fake  
5 documentation could be presented and it is not detected.

6 Q And similarly, if someone who is not Jorge Milton  
7 Cifuentes Villa was carrying documentation for him, you may  
8 not catch that either, correct?

9 A It's not easy for that to happen. The person would have  
10 to be the other person's identical twin, otherwise it's not  
11 possible for that to happen. It would have to be not just an  
12 ideological but a material defect on the document. Other than  
13 that, the experts can always detect that in the documents.

14 Q But there is some slippage; wouldn't you agree? That  
15 states that?

16 A Yes, a low risk.

17 Q And just curious. Have you ever heard of, let's say,  
18 identical twins that are also narco traffickers?

19 A In my country, there were a couple of brothers, identical  
20 twins, they were very well known. The brothers. Mejia  
21 Munera. M-E-J-I-A, M-U-N-E-R-A by interpreter.

22 Q And lastly, were you asked to check any travel records  
23 for Joaquin Guzman Loera into and out of the country.

24 MR. FELS: Objection, assumes fact not in evidence.

25 THE COURT: You're asking 403? Overruled.

VELASQUEZ ARDILA - CROSS - MR. LICHTMAN

1           You can answer the question yes or no.

2       A     I could not tell whether they were requested. We receive  
3       many requests and there are many travelers. I was not asked  
4       to bring documentation, such documentation to this hearing.

5       Q     In preparation for your testimony?

6       A     In preparation for my testimony.

7           MR. LICHTMAN: No further questions. Thank you.

8           THE COURT: Any redirect?

9           MR. FELS: No redirect, Your Honor.

10          THE COURT: All right, you may step down.

11          The government may call its next witness.

12          (Whereupon, the witness was excused.)

13          MR. FELS: Your Honor, the government calls Mauricio  
14       Gomez Vega.

15          THE COURT: Okay.

16          THE COURTROOM DEPUTY: Please stand and raise your  
17       right hand.

18          (Witness takes the witness stand.)

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MAURICO VEGA GOMEZ - DIRECT - MR. FELS

1 **MAURICO VEGA GOMEZ**, called as a witness, having been first  
2 duly sworn/affirmed through the interpreter, was examined and  
3 testified as follows:

4 THE WITNESS: Yes, I do.

5 THE COURTROOM DEPUTY: Please state and spell your  
6 name for the record.

7 THE WITNESS: My name is Maurico Vega Gomez.  
8 M-A-U-R-I-C-I-O. V-E-G-A. G-O-M-E-Z.

9 THE COURTROOM DEPUTY: You may be seated.

10 (Continued on the next page.)  
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Vega - Direct/Mr. Fels

1 THE COURT: You may proceed.

2 MR. FELS: Thank you, your Honor.

3 DIRECT EXAMINATION

4 BY MR. FELS:

5 Q Good morning, Major Vega.

6 Sir, with whom do you work?

7 A I'm an officer in the Colombian National Police.

8 Q And how long have you been with the Colombian National  
9 Police?

10 A 17 years, sir.

11 Q Now, what rank have you attained?

12 A I'm a major.

13 Q And what is your current assignment?

14 A At this point, I'm the Chief of the Control in the  
15 Utilization of Chemical Substances.

16 Q Where are you currently assigned, Major Vega?

17 A To the antinarcotics direction.

18 Q In which city?

19 A Bogota.

20 Q And are you a member of what's called the SIU?

21 A Yes, sir.

22 Q And as a member of that, of the SIU, do you receive some  
23 additional monies from the United States Government?

24 A Yes, sir.

25 Q And what is that?

Vega - Direct/Mr. Fels

1 A For my personal expenses and activities related to my  
2 service.

3 Q Do you know approximately how much that is a month?

4 A Yes, sir, \$200.

5 Q Now, you came from Colombia to testify in this case; is  
6 that correct?

7 A Yes, sir.

8 Q I want to take you back to 2010.

9 Where were you working at that time?

10 A The Sensitive Investigations Unit as the chief of the  
11 Cali office.

12 Q And, again, Sensitive Investigations Unit, is that SIU?

13 A Yes, sir.

14 Q And what was your responsibility back in 2010 working in  
15 Cali, Colombia?

16 A I was in charge of supervising and carrying  
17 investigations that had to do with drug trafficking, and to  
18 also carry out support activities to the other SIU offices in  
19 Colombia.

20 Q Now, I'm going to show you what's already in evidence as  
21 Government's Exhibit 506-22.

22 Major Vega, do you recognize what's being depicted  
23 in Government's Exhibit 506-22?

24 A Yes, of course, that's my city.

25 Q Colombia, correct?

1 A Yes, sir.

2 Q Do you mind using your finger on the screen to circle the  
3 City of Cali?

4 A (Marking).

5 Q Thank you.

6 So, I want to direct your attention, specifically,  
7 to a date of May 16, 2010. What was your assignment on  
8 May 16, 2010, sir?

9 A I was leading the Sensitive Investigations Unit Office in  
10 Cali that day.

11 Q And without getting into the details of what you heard,  
12 can you say what kind of assignment you received?

13 A I received a task that day from the office in Medellin to  
14 carry out surveillance and tracking of an objective that they  
15 were -- of an investigation they were conducting of someone  
16 who was to arrive to the airport.

17 Q And do you understand the source of that investigation,  
18 meaning, how your counterparts in Medellin knew that this man  
19 would be arriving in Cali.

20 A Yes, they have been conducting an investigation in  
21 Medellin and they knew about certain activities and  
22 characteristics that were going to take place in Cali which is  
23 the city where I was.

24 Q And as long as we have Government's Exhibit 506-22 in  
25 front of us, do you mind circling with your finger the City of



Vega - Direct/Mr. Fels

1 Medellin?

2 A (Marking).

3 Q Thank you. So did you actually conduct surveillance on  
4 this day of May 16, 2010?

5 A Yes, sir.

6 Q Did you ultimately learn who this individual who were you  
7 conducting the surveillance was?

8 MR. PURPURA: Is it objection. Objection. 801.

9 THE COURT: I know. It's not being offered for the  
10 truth, it's being offered to show what he did next.

11 Q Sir, do you know the name of the target that asked to  
12 surveil?

13 A I was informed that it was a man by the name alias Tomas.

14 Q And did you observe the man with alias Tomas ultimately  
15 meet with some individuals?

16 A Yes, sir.

17 Q And where did you observe -- did you personally observe  
18 this man, alias Tomas, meet with these individuals at a  
19 particular location?

20 A Yes, sir.

21 Q And what was that location?

22 A The Palmetto Plaza Shopping Center in the City of Cali.

23 Q And what did you -- were you there with other individuals  
24 from the SIU?

25 A Yes, sir.

1 Q And what did you do to memorialize this meeting between  
2 alias Tomas and other individuals at they Centro Comercial in  
3 Palmetto in Cali?

4 A We filmed several videos throughout the entire  
5 surveillance and of all the people that they met up with.

6 Q And I'm going to show you a video, if you don't mind,  
7 of -- that's already in evidence as Government's Exhibit  
8 703-A-6. Folks, you should be?

9 MR. PURPURA: Your Honor, can we stop -- objection.  
10 Can I speak to counsel for one second.

11 THE COURT: Sure.

12 MR. PURPURA: Can we approach, your Honor, very  
13 briefly.

14 (Continued on the next page.)  
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SIDEBAR CONFERENCE

3840

1 (Sidebar conference held on the record in the  
2 presence of the Court and counsel, out of the hearing of the  
3 jury.)

4 THE COURT: What's the problem?

5 MR. PURPURA: Thank you. We've already seen these  
6 videos, so it's 403. You can't have two different witnesses  
7 and play the same recordings.

8 THE COURT: What additional insight is this witness  
9 bringing to the video.

10 MR. FELS: Just authenticating the video.

11 THE COURT: It's already authenticated, you don't  
12 have to do it.

13 MR. FELS: Do you have a problem with me showing the  
14 photographs?

15 MR. PURPURA: I do. We've already seen it.

16 THE COURT: What's the point? There's more than one  
17 person who recognizes the photographs.

18 MR. FELS: The point is they have attacked the  
19 credibility pretty harshly of the witness from whom these  
20 videos came in.

21 THE COURT: Oh.

22 MR. FELS: This is essentially an attempt to  
23 demonstrate that these videos are what that previous witness  
24 said they were and help rehabilitate at least.

25 THE COURT: It was cooperators before that.

SIDEBAR CONFERENCE

3841

1 MR. FELS: It was a cooperator. I don't think this  
2 is 403, it doesn't have the defendant's video on it.

3 THE COURT: I understand the point. Do what you  
4 need to do but do it briefly. He is correct that they're  
5 allowed to corroborate once you raise the question of whether  
6 the cooperators are saying the truth about anything. So is it  
7 if the police officer says it maybe it gives it more weight.  
8 I think that's legitimate.

9 MR. FELS: Okay.

10 (Sidebar concludes.)

11 (Continued on the next page.)  
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1 (In open court.)

2 DIRECT EXAMINATION

3 MR. FELS:

4 (Continuing.)

5 Q I'm going to show you. Sir, did you review those videos  
6 recently?

7 A Yes, sir.

8 Q And these were the videos, Government's Exhibit 703-A-6,  
9 these were the videos that you and your team took?

10 A Yes, sir.

11 Q And we don't have to play those again, they're already in  
12 evidence. But I do want to show you two still photographs  
13 from that video, okay?

14 Sir, you mentioned a man named Tomas that you were  
15 surveilling. I'm sorry, I should identify the photographs.  
16 GX-703-A-2 on the right and GX-703-A-3, on the left. I'm  
17 sorry, did I say 703-A-2 and 703-A-3.

18 Sir, do you recognize these photographs from that  
19 surveillance that you took.

20 A Yes, sir.

21 Q Do you recognize the individual in 703-A-2 as one of the  
22 individuals that you were surveilling that day?

23 A Yes, sir.

24 Q And who was that?

25 A Alias Tomas.

1 Q Were you asked, or I should say, were you tasked with a  
2 second surveillance on May 19th of 2010?

3 A Yes, sir.

4 Q And where was this surveillance?

5 A At another shopping center in the City of Cali by the  
6 name Uni Central exactly right at the outside of that place.

7 Q And, same process, you assembled a team of other officers  
8 that helped you with the surveillance?

9 A That's right.

10 Q And were you able to memorialize this surveillance on the  
11 19th of May of 2010 in some fashion?

12 A Yes, sir, by video.

13 Q And, sir, have you recently reviewed the video from that  
14 surveillance?

15 A Yes, sir.

16 Q Again, this is already in evidence as Government's  
17 Exhibit 703-B. I'm going to show you what's already in  
18 evidence as Government's Exhibit 703-B-14.

19 Do you recognize this still photograph?

20 A Yes, sir.

21 Q This is from the surveillance that you took?

22 A Yes, sir.

23 Q Do you recognize the individuals in this photograph?

24 A Yes, sir.

25 Q Who?

1 A On the right, the person is Tomas. And this is another  
2 target that the Medellin office was focusing on.

3 MR. FELS: I have no further questions, your Honor.

4 THE COURT: All right.

5 MR. PURPURA: Thank you. No questions.

6 THE COURT: All right. You may step down, sir.

7 Thank you.

8 (Witness leaves the witness stand.)

9 THE COURT: Government may call its next witness.

10 MR. FELS: Thank you, your Honor. Government calls  
11 John Hincapie.

12 (Witness takes the witness stand.)

13 COURTROOM DEPUTY: Please raise your right hand.

14 JOHN HINCAPIE, called by the Government, having been first  
15 duly sworn, was examined and testified as follows:

16 THE WITNESS: I do.

17 COURTROOM DEPUTY: Please state your full name for  
18 the record.

19 THE WITNESS: My name is Raul Lozano.

20 MR. FELS: We have a little bit of an issue.

21 THE COURT: All right. We'll switch something up a  
22 little bit.

23 MR. FELS: I don't want to proceed like this.

24 THE COURT: Do you want to stick with this witness.

25 MR. FELS: We'll stick with Mr. Hincapie. If you

1 might stand down, we'll bring in the witness.

2 THE COURT: You may step out, sir. We called you at  
3 the wrong time we'll bring in someone else.

4 (Witness takes the witness stand.)

5 THE COURT: Okay. We're going to give this another  
6 60 seconds.

7 COURTROOM DEPUTY: Please raise your right hand.  
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Hincapie - Direct/Mr. Fels

3846

1 (Witness sworn.)

2 JOHN HINCAPIE, called by the Government, having been first  
3 duly sworn, was examined and testified as follows:

4 THE WITNESS: I do.

5 COURTROOM DEPUTY: Okay. Please state and spell  
6 your name for the record.

7 THE WITNESS: John Fredi Hincapie Guevara.

8 COURTROOM DEPUTY: Spell that.

9 THE WITNESS: John, J-o-h-n. Fredi, F-r-e-d-i.  
10 Hincapie, H-i-n-c-a-p-i-e. Guevara, G-u-e-v-a-r-a.

11 COURTROOM DEPUTY: You may be seated.

12 THE COURT: All right. You may inquire.

13 MR. FELS: Thank you, your Honor.

14 DIRECT EXAMINATION

15 BY MR. FELS:

16 Q Good morning, Mr. Hincapie.

17 A Good morning.

18 Q Can you please tell us with whom do you currently work?

19 A Currently, I work with the National Colombian Police, the  
20 Antinarcotics Division.

21 Q And how long have you worked there with the Colombian  
22 National Police?

23 A 22 years, 4 months, and a few more days.

24 Q And what is your responsibility with the Colombian  
25 National Police, specifically?

Hincapie - Direct/Mr. Fels

3847

1 A Currently, I am responsible for a unit that is based in  
2 the City of Medellin that conducts investigations against drug  
3 trafficking organizations.

4 Q And what is your current title?

5 A My rank is superintendent.

6 Q Thank you. So may I refer to you as  
7 Superintendent Hincapie?

8 A Yes.

9 Q Thank you. I want to direct your attention back to 2009.

10 Where were you working there,  
11 Superintendent Hincapie?

12 A In the City of Medellin, with the same group where I  
13 currently work.

14 Q And do you remember, was there a particular investigation  
15 that you were working throughout that year of 2009?

16 A Yes.

17 Q And what was that investigation?

18 A That investigation was part of a drug organization that  
19 was the Cifuentes Villa.

20 Q As part investigation into the Cifuentes Villa Drug  
21 Organization, were there surveillances that were done?

22 A Yes.

23 Q What about electronic surveillance or wiretaps, were  
24 those also done?

25 A Yes.

1 Q Can you explain to the jury how does the process for  
2 obtaining an authorization to do a wiretap in Colombia work?

3 A Yes. As an investigator, I draft a report that is  
4 addressed to the investigations prosecutor. In that report, I  
5 narrate the reason, the need, and why it is this we need to  
6 intercept that specific phone number. And the prosecutor  
7 issues the wiretap order and I receive that order, I process  
8 it, and I send it to the communications unit with the  
9 antinarcotics division.

10 The chief of that area receives and processes that  
11 order and he would send that to the communications and  
12 wiretapping division and that division is known as Plataforma,  
13 platform, or Esperanza, hope.

14 And that division or Esperanza system would make the  
15 application with the cellular phone carrier and the signal is  
16 rerouted from the carrier to our system, to our wiretapping  
17 office. And there we have an officer who is the  
18 communications analyst and who has a special software. And  
19 that person will then gather all the files in WAP files and  
20 will burn DVDs or CDs that are later on sent to our evidence  
21 vault.

22 Q And they're kept in your evidence vault; is that correct?

23 A Yes.

24 Q Now, is there a point in which a judge will get involved?

25 A Yes.

Hincapie - Direct/Mr. Fels

3849

1 Q Can you explain how that happens?

2 A At the end of the wiretapping, at the end of the  
3 wiretapping -- well, currently, we have a period of 180 days  
4 to wiretap. In 2010, that period only was 90 days. So at the  
5 end of those 90 days, or at the end of the wiretap, or when  
6 the user stops using that cell phone, the investigator  
7 together with the analyst would draft a report with the  
8 results and that report we would also transcribe some of the  
9 calls or the most important calls which we call "dirty calls."

10 And, at times, there are so many dirty calls or  
11 calls with relevant information that we then extract the most  
12 important ones and we add them to the report that we submit to  
13 the prosecutor and the prosecutor would request a hearing with  
14 the constitutional rights judge and that judge would then go  
15 ahead and do a formal and official review of the materials and  
16 all the results.

17 Q Now, is there an opportunity, if you said you were  
18 listening for 90 days, to renew a wiretap for an additional  
19 period of time in Colombia?

20 A Yes.

21 Q And, again, is the process the same when you are trying  
22 to update a wire that you still have to pass along the number  
23 to the cell phone companies to obtain the data?

24 A Yes.

25 Q And, again, same. You maintain these disks in the

1 evidence vault?

2 A Yes.

3 Q I want to go forward a few more years.

4 Were you asked to obtain copies of some of those  
5 evidence disks in the Jorge Cifuentes Villa investigation?

6 A Yes.

7 Q And where did you -- did you send them to the  
8 United States?

9 A Yes.

10 Q I'm going to show you what's marked for identification  
11 purposes as 606-A.

12 MR. FELS: Just for the witness, your Honor.

13 Q Sir, showing you both the disk, 606-A, as well as this  
14 green envelope, do you recognize the writing on the envelope,  
15 sir?

16 A Yes.

17 Q Whose writing is that?

18 A Mine.

19 Q And there's a writing here that say Jota O Penultimo?

20 A Yes.

21 Q Does that tell you whose calls are in Government's  
22 Exhibit 606-A. In other words, whose line were you recording?

23 A Yes.

24 Q And who is it?

25 A Jota O Penultimo or Simon.

1 Q How did you know it was Simon?

2 A Because that's how the other members of the organization  
3 referred to him. Either the Penultimo or Simon.

4 Q And also Jota?

5 A Yes, Jota.

6 Q Did you know who these are all nicknames for, what  
7 person?

8 A Yes.

9 Q Who was that?

10 A Jorge Milton Cifuentes Villa.

11 Q We'll run through a couple more of these.

12 Showing you what's been marked for identification  
13 purposes as Government's Exhibit 606-B.

14 MR. LICHTMAN: Judge, we have no objection to the  
15 introduction of any of these.

16 MR. FELS: Your Honor, we're not going to introduce  
17 these into evidence. What we're going is we're showing for  
18 demonstrative purposes to lay the groundwork for the documents  
19 that we'll introduce into evidence.

20 THE COURT: I'm no sure I understood all that but  
21 understood.

22 MR. FELS: We'll go through quickly, your Honor.

23 EXAMINATION BY

24 MR. FELS:

25 (Continuing.)

1 Q 606-B. This is one of the disks that you made from the  
2 originals?

3 A Yes.

4 Q 606-C. Do you recognize this as one the disks that you  
5 made from the originals back in Colombia?

6 A Yes.

7 Q 606-D. Do you recognize this as one of the copies that  
8 you made from the originals back in Colombia?

9 A Yes.

10 Q How about 606-E. Do you recognize your handwriting here?

11 A Yes.

12 Q And you recognize 606-E as one of the copies you made  
13 from the original in Colombia?

14 A Yes.

15 Q Now, this you've written here "Tomas."

16 Based on your investigation, you know who Tomas was?

17 A Yes.

18 Q Who?

19 A Gavino Ontiveras Rios.

20 Q That's his real name?

21 A Yes, Gavino Ontiveras Rios was his real name.

22 Q And, sir, are you aware that there were calls made on his  
23 Colombian phone?

24 A Yes.

25 Q And those calls were intercepted?

1 A Yes.

2 Q Okay, 606-F.

3 Do you recognize this as one of the disks that you  
4 made from the original back in Colombia?

5 A Yes.

6 Q Last one, 606-G.

7 Do you recognize this as one of the copies of disks  
8 that you made from an original back in Colombia?

9 A Yes.

10 Q Now, sir, Government's Exhibits 606-A, B, C, D, E, F, and  
11 G were these all identical copies to the originals that are  
12 maintained in the evidence vault back in Colombia?

13 A Yes.

14 Q Have they about this altered in any way?

15 A No.

16 Q Okay. I want to walk you through something you did the  
17 other day.

18 Sir, were you asked to compare a disk that had  
19 already been prepared for you with the disks, 606-A, B, C, D,  
20 E, F, G?

21 A Yes.

22 Q I'm going to show you what's been marked for  
23 identification purposes as 606-I.

24 Do you recognize your initials on this disk?

25 A Yes.



1 Q And a date?

2 A Yes.

3 Q And whose initials are they?

4 A Those initials were written down by me. They correspond  
5 to my name.

6 Q And the date. Can you read what date it is?

7 A December 18, 2018.

8 Q Sir, what is the significance of putting your initials on  
9 this disk?

10 A That I went over its contents.

11 Q And do the contents contained in 606-I match with at  
12 least one call in 606-A, B, C, D, E, F, G?

13 A Yes.

14 Q Meaning, just to be clear, that you were able to find  
15 each one of the calls in 606-I on one of those previous disks  
16 that I mentioned?

17 A Yes.

18 Q And did you compare the calls to make sure that they were  
19 identical and that they had not been altered?

20 A Yes.

21 MR. FELS: Your Honor, at this point we move to  
22 admit Government's Exhibit 606-I.

23 MR. LICHTMAN: No objection.

24 THE COURT: That's quite a chain of custody. Yes,  
25 it is received.

1 (Government Exhibit 606-I, was received in  
2 evidence.)

3 THE COURT: What you're saying is 606-I is comprised  
4 of some of the original wiretap calls?

5 MR. FELS: That is correct.

6 THE COURT: Okay. Let's go on.

7 EXAMINATION BY

8 MR. FELS:

9 (Continuing.)

10 Q I'm going to show you three more disks right now.

11 Government's Exhibit, one of which is already in  
12 evidence, two of which are not. Government's Exhibit 606-J,  
13 which is currently in evidence, 606-K, and 606-L.

14 Sir, were you asked to review the contents of these  
15 three disks as well?

16 A Yes.

17 Q And with the exception of one call, which we'll get into  
18 in just a moment, were all of the calls on 606-I on one of  
19 these three disks?

20 A Yes.

21 MR. FELS: One second, your Honor.

22 (A brief pause in the proceedings was held.)

23 MR. FELS: Your Honor, we would at this point move  
24 to admit Government's Exhibits 606-K and 606-L.

25 MR. LICHTMAN: No objection. No objection.

Hincapie - Direct/Mr. Fels

3856

1 THE COURT: Received.

2 (Government Exhibits 606-K and 606-L, were received  
3 in evidence.)

4 Q We talked about one call; correct?

5 A Yes.

6 Q Now, actually, let me if I might just see if we can  
7 resolve this with the defense attorney one second.

8 THE COURT: Better late than never.

9 (A brief pause in the proceedings was held.)

10 Q We're going to speed this along.

11 Sir, were you asked to listen to the one call that  
12 did not appear in 606-A, B, C, D, E, F, or G?

13 A Yes.

14 Q And that was a call between -- if I can lead a little  
15 bit -- in this area between Jota, Jere, and Lucia?

16 A Yes.

17 Q Sir, were you able to recognize that call as one of the  
18 calls that you remember specifically from your investigation  
19 back in 2009?

20 A Yes.

21 Q And showing you what's been marked for identification  
22 purposes as Government's Exhibit 606-H.

23 Sir, were you asked to review this disk 606-H and  
24 the one call on that disk?

25 A Yes.

Hincapie - Direct/Mr. Fels

3857

1 Q And what do we see here on the front of this disk. Let  
2 me see if I can get some of the glare out. 606-H. Doesn't  
3 help at all.

4 A The disk has my name, initial, and the date December 19,  
5 2018.

6 Q And what is your significance of your initials and the  
7 date on disk 606-H?

8 A That I went over its contents and it contained one call  
9 specifically.

10 Q And is that the call we were just talking about between  
11 Lucia and JR?

12 A Yes.

13 Q Did you review that call recently?

14 A Yes.

15 Q And the contents he Government's Exhibit 606-H do not  
16 appear to have been altered in any way from the original as  
17 you recalled it?

18 A No.

19 MR. FELS: We move to admit into evidence  
20 Government's Exhibit 606-H.

21 MR. LICHTMAN: No objection.

22 THE COURT: Received.

23 (Government Exhibit 606-H, was received in  
24 evidence.)

25 EXAMINATION BY

1 MR. FELS:

2 (Continuing.)

3 Q Now, sir, were you a member of what's called the SIU?

4 A Yes.

5 Q And as a consequence of being a member of the SIU, do you  
6 receive additional monies from the United States Government?

7 A Yes.

8 Q And, approximately, how much is that?

9 A \$200 a month.

10 MR. FELS: No further questions, your Honor.

11 THE COURT: Any cross?

12 MR. LICHTMAN: Judge, very briefly.

13 CROSS-EXAMINATION

14 CROSS-EXAMINATION

15 BY MR. LICHTMAN:

16 Q Sir, you're a member of the Colombian SIU?

17 A Yes.

18 Q And you were involved in the investigation of the Jorge  
19 Cifuentes Drug Trafficking Organization?

20 A Yes.

21 Q And this occurred over a period of years; correct?

22 A Yes.

23 Q Did you learn at any point that Jorge Cifuentes had  
24 bribed Colombian law enforcement officials to have his  
25 fingerprints removed from law enforcement databases?

1 A No.

2 Q Are you aware that Jorge Cifuentes had bribed Colombian  
3 law enforcement officials to have his fingerprints removed  
4 from law enforcement databases?

5 A That I did not hear about during our investigation.

6 Q And lastly, are you aware of the allegation from Jorge  
7 Cifuentes that he met with a corrupt member of the Colombian  
8 SIU in November of 2010 and received investigatory materials  
9 from this case?

10 A No.

11 Q This is the first you're hearing of all of this?

12 A Yes.

13 MR. LICHTMAN: Nothing further. Thank you.

14 MR. FELS: Brief, your Honor.

15 THE COURT: Yes.

16 MR. FELS: I can do this from here.

17 REDIRECT EXAMINATION

18 REDIRECT EXAMINATION

19 BY MR. FELS:

20 Q Sir, you just heard a bunch of questions about Jorge  
21 Cifuentes destroying his fingerprint records and prison  
22 records and potentially being bribe -- potentially bribing an  
23 official?

24 A Yes.

25 Q And that didn't come up in your investigation. I believe

1 that was your testimony?

2 A Yes.

3 Q Would it surprise you, sir --

4 MR. LICHTMAN: Objection.

5 Q That the information came from Jorge Milton Cifuentes  
6 himself volunteering it to the United States?

7 MR. LICHTMAN: Objection.

8 THE COURT: Sustained.

9 MR. FELS: No further questions.

10 THE COURT: You may step down. Thank you, sir.

11 (Witness leaves the witness stand.)

12 THE COURT: Ladies and gentlemen, we'll take our  
13 lunch break. We have some holiday cookies since this is our  
14 last day before the holidays. Please don't talk about the  
15 case, talk about the cookies. We'll see you back here at  
16 1:30. Thanks very much.

17 (Jury exits courtroom.)

18 THE COURT: All right. 1:30.

19 (Luncheon recess taken.)

20 (Continued on the next page.)

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Lozano - Direct/Parlovecchio

A F T E R N O O N       S E S S I O N

(In open court.)

THE CLERK: All rise.

THE COURT: Let's have the jury first.

(Jury enters.)

THE COURT: All right. Everyone be seated.

For the sake of good order, we are going to reswear  
this witness, now that we know who he is.

THE CLERK: Please raise your right hand.

(Witness sworn.)



1 RAUL LOZANO, called as a witness, having been first duly  
2 sworn/affirmed, was examined and testified as follows:

3 RAUL LOZANO, called as a witness, having been first  
4 duly sworn/affirmed, was examined and proceeded to testify as  
5 follows:

6 THE WITNESS: I do.

7 THE CLERK: Please state and spell your name for the  
8 record.

9 THE WITNESS: My name is Raul Lozano. The spelling  
10 is R-A-U-L, Lozano, L-O-Z-A-N-O.

11 THE CLERK: Okay.

12 THE COURT: All right. You may proceed.

13 MS. PARLOVECCHIO: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MS. PARLOVECCHIO:

16 Q Good afternoon, Mr. Lozano.

17 A Good afternoon.

18 Q Welcome back.

19 A Thank you.

20 Q Where are you employed?

21 A I am employed by the State of El Paso, Texas.

22 Q What is your title there?

23 A Currently I'm a sergeant assigned to the special  
24 investigations unit.

25 Q Is that with the El Paso police department?

1 A Yes, it is.

2 Q What are your duties and responsibilities as a sergeant  
3 with the El Paso Police Department?

4 A Currently I'm in charge of emergency management incidents  
5 and also public corruption, allegations made against public  
6 officials.

7 Q I want to draw your attention to January 13, 2010.

8 Where were you assigned at that time?

9 A At that time I was assigned to El Paso Police Department  
10 narcotics unit, in particular the stash house unit.

11 Q What did the stash house unit do back in 2010 when you  
12 were assigned there?

13 A The stash house unit was responsible for identifying  
14 locations where narcotics or large quantities of narcotics  
15 were being stored and repackaged for distribution throughout  
16 the United States.

17 Q Is El Paso known as a way station for narcotics?

18 A Yes, it is.

19 Q How so?

20 A It's due to the close proximity to the U.S. border.  
21 Juarez, Mexico is directly across from us. It's a known  
22 location where drugs are brought over to the United States  
23 through those means.

24 Q Were you on duty on January 13, 2010?

25 A Yes, I was.

Lozano - Direct/Parlovecchio

1 Q What were you doing that day?

2 A I was following up on leads that we had received through  
3 our office, just going around, checking up on different  
4 locations.

5 Q I want to focus your attention on 4:00 p.m. that day.

6 What happened?

7 A I received a call from our narcotics office regarding a  
8 vehicle that was coming in from Mexico into the United States.  
9 That was going to be held with another vehicle.

10 Q What did you do as a result of receiving that  
11 information?

12 A I received specific plates to a VW Jetta, black in color.  
13 I ran those plates and received a registration that's an  
14 address located on Tierra Bella.

15 Q What did you do next?

16 A I proceeded -- first, I notified my team with the  
17 information that was received. I proceeded to that address.  
18 I set up surveillance, being that I was the first one that  
19 arrived, and proceeded to conduct surveillance at the house.

20 Q What did you see after you arrived at the residence?

21 A Approximately 15 minutes into the surveillance I observed  
22 a black Jetta arrive at the residence. The vehicle stopped  
23 and backed into the garage. Of course, the garage door  
24 opened, and the vehicle backed up into the garage.

25 Q Did you observe any other vehicles while you were

1 conducting surveillance at the residence that day?

2 A At that time, no. The vehicle drove into the garage,  
3 and, again, the door closed.

4 Q What happened next?

5 A About 15 minutes after it arrived a dark-colored SUV with  
6 Chihuahua, Mexico plates showed up, and an individual, a male  
7 individual, exited the residence and entered the vehicle.  
8 Again, I relayed this information to the team.

9 Q You mentioned that the vehicle you saw had Chihuahua,  
10 Mexico plates?

11 A That's correct.

12 Q Where is Chihuahua, Mexico?

13 A Chihuahua is located in Mexico.

14 Q Now, what happened after you observed that?

15 A The male occupant, the passenger, entered through the  
16 passenger side, and the vehicle drove off. Again, I relayed  
17 this information to the team, and they proceeded to follow the  
18 vehicle.

19 MS. PARLOVECCHIO: I'm going to show you what's  
20 marked for identification as Government's Exhibits 217-10  
21 through 217-12.

22 MR. PURPURA: No objection, Your Honor.

23 THE COURT: Okay.

24 MS. PARLOVECCHIO: I would like to move into  
25 evidence Government Exhibits 217-10 through 12.

1 THE COURT: Received.

2 (Government Exhibits 217-10 through 217-12, were  
3 received in evidence.)

4 Q Mr. Lozano, I'm going to show you photographs here.

5 Government's Exhibit 217-10, what do you see here?

6 A That's the resident located on Tierra Bella.

7 Q What is the address?

8 A 12412 Tierra Bella.

9 Q What do you see inside the garage there?

10 A Inside the garage is a VW Jetta backed into the garage.

11 Q Is that the Jetta you observed on January 13, 2010?

12 A Yes, it is.

13 Q I'm showing you 217-11, is that just another view of the  
14 house?

15 A That's another view of the house, that's correct.

16 Q And 217-12?

17 A Again, another view of the residence.

18 Q Now, what happened after you notified your team in regard  
19 to that dark SUV?

20 A The team followed the vehicle. A short time later they  
21 came back to the house with the individual that had left in  
22 the SUV.

23 Q What happened after that?

24 A They entered the house. They had received consent to  
25 search the residence, at which point they entered the house.

1 Q What did you do next?

2 A I followed them inside the residence. Again, we were  
3 conducting a search for narcotics. Upon entering the  
4 residence, I was notified that a large quantity of weapons was  
5 located inside the garage.

6 Q Did you see the weapons?

7 A Yes, I did.

8 Q Where did you see them?

9 A If I remember correctly, they were in the garage. We had  
10 moved them from the garage to the living room area for  
11 inventory purposes.

12 MS. PARLOVECCHIO: Just for the witness, I would  
13 like to show you Government Exhibits 217-7, 217-8, and 217-9.

14 MR. LICHTMAN: No objection.

15 MS. PARLOVECCHIO: I would like to move them into  
16 evidence then, Your Honor.

17 THE COURT: Received.

18 MS. PARLOVECCHIO: Thank you.

19 (Government Exhibits 217-7, 217-8, and 217-9, were  
20 received in evidence.)

21 MS. PARLOVECCHIO: Publish them. Thank you.

22 Q I'm showing you Government Exhibit 217-7.

23 What are we looking at here?

24 A We are looking at a picture of AK-47s, ballistic vests,  
25 and some boxes that also contained AK-47s.

Lozano - Direct/Parlovecchio

1 Q Are those boxes on the left-hand side of the photograph?

2 A Yes, they are.

3 Q I'm showing you Government's Exhibit 217-8.

4 What do we see here?

5 A Again, another view of the ballistic vests, the AK-47s,  
6 and the ammunition magazines that were located inside the  
7 garage.

8 THE COURT: When you say a ballistic vest, you mean  
9 a bulletproof vest?

10 THE WITNESS: A bulletproof vest, yes.

11 Q Using your screen there, could you circle the magazines  
12 that you observed that day.

13 Now I'm showing you Government Exhibit 217-9.

14 Is that another view of what you saw that day?

15 A That's correct. That's another view.

16 Q Now, what did you do after you and your colleagues  
17 discovered the weapons, the vests, and the magazines?

18 A Again, our primary purpose was to locate narcotics. We  
19 didn't have a state chart. So we went ahead and notified the  
20 federal agencies. I contacted the FBI, DEA, and ATF; and they  
21 agreed they would reply or respond to the scene.

22 Q What happened to the weapons, the vests, and the  
23 ammunition after you contacted those agencies?

24 A ATF arrived, and they agreed they would take over the  
25 investigation.

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1 MS. PARLOVECCHIO: No further questions for this  
2 witness, Your Honor.

3 THE COURT: All right. Any cross?

4 MR. PURPURA: Thank you, Your Honor. No questions.

5 THE COURT: All right. You may step down.

6 The government's next witness?

7 MS. PARLOVECCHIO: The government calls Curtis  
8 Williams.

9 THE CLERK: Please raise your right hand.  
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1 (Witness sworn.)

2 CURTIS WILLIAMS, called as a witness, having been  
3 first duly sworn/affirmed, was examined and proceeded to  
4 testify as follows:

5 THE CLERK: Please state and spell your name for the  
6 record.

7 THE WITNESS: Curtis Williams, C-U-R-T-I-S  
8 W-I-L-L-I-A-M-S.

9 THE COURT: You may inquire.

10 MS. PARLOVECCHIO: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MS. PARLOVECCHIO:

13 Q Good afternoon, Mr. Williams.

14 A Good afternoon.

15 Q Where are you employed?

16 A I'm employed with the Bureau of Alcohol, Tobacco,  
17 Firearms, and Explosives.

18 Q Is that also known as the ATF?

19 A Yes, s.

20 Q What is your position with the ATF?

21 A I'm a special agent.

22 Q How long have you been a special agent with the ATF?

23 A Approximately ten and a half years.

24 Q Where is your current assignment?

25 A I'm assigned to the Houston field division, Houston,

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1 Texas.

2 Q Prior to being assigned at Houston where were you  
3 assigned?

4 A Well, prior to Houston where was I assigned?

5 Q Yes.

6 A I was assigned to the El Paso field office in El Paso,  
7 Texas.

8 Q What are your duties and responsibilities as a special  
9 agent with the ATF?

10 A I investigate violations of the federal firearms and  
11 explosives laws.

12 Q I want to direct your attention to January 2010.

13 Were you working on an investigation at that time?

14 A I was.

15 Q What investigation was that?

16 A It was an investigation into Alberto Sandoval, where he  
17 was found in possession of 40 AK-47-type rifles.

18 Q I'm going to direct your attention in particular to  
19 January 13, 2010.

20 What did you do that day?

21 A I remember being at work. I remember late afternoon,  
22 maybe early evening, I received a phone call from the El Paso  
23 Police Department, Sergeant Lozano, Raul Lozano; and he said  
24 he found or his team had found several AK-47-type rifles at an  
25 address in East El Paso, Texas.

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1 Q What did you do as a result of receiving that  
2 information?

3 A I went to the address he provided me.

4 Q I'm going to show you what's in evidence as Government  
5 Exhibit 217-10.

6 What are we looking at here?

7 A This is the front of the home that I went to on  
8 January 13, 2010.

9 Q Did you enter the residence?

10 A Yes, I did.

11 Q What did you observe upon entering the residence?

12 A When I went in, I remember seeing several boxes with  
13 firearms in them and five or six firearms on the floor in the  
14 living room of the house.

15 Q I'm going to show you what's in evidence as Government  
16 Exhibit 217-7, 217-8, and 217-9.

17 What do we see here on 217-7?

18 A Those are the firearms that I saw when I walked into the  
19 house.

20 Q I'm showing you 217-8.

21 A Just a different angle of the same room with the  
22 firearms. I can also see the ballistic vests that were found  
23 and several ammunition magazines.

24 Q I'm going to circle these boxes here in 217-8 on the  
25 left-hand side of the photograph.

1           What were contained in those boxes?

2       A     I remember that each box had, I believe there were two  
3       AK-47-type rifles.

4       Q     Now, what, if at all, was distinctive about these weapons  
5       you found at the residence?

6       A     I remember thinking -- I thought they were brand-new.  
7       They had -- I don't know if they were sales tags but tags  
8       identifying the firearms in addition to the markings on the  
9       firearm. Either the boxes also had marks identifying some of  
10      the firearms, so because of that it made me think they were  
11      brand-new.

12      Q     I'm going to show you Government's Exhibit 217-9. I'm  
13      going to circle these vests here.

14           Now, you mentioned that -- what did you call, them  
15      ballistic vests?

16      A     Yeah. That's how I would describe them, yes.

17      Q     What ballistic vests?

18      A     Basically a bulletproof vest. It's to protect the wearer  
19      from damage from a firearm.

20      Q     Now, what did you do after you observed the weapons, the  
21      vests, and the magazines in the residence?

22      A     Well, we transported them back to our office and stored  
23      them there for evidence.

24      Q     I'm going to show you what's marked for identification as  
25      Government's Exhibits 217-1 through 217-6, 217-16 through

1 217-19.

2 MR. PURPURA: No objection.

3 THE COURT: Received.

4 (Government Exhibits 217-1 through 217-6, 217-19,  
5 were received in evidence.)

6 Q Just briefly, Special Agent Williams, I'm showing you  
7 Government Exhibit 217-1.

8 What are we looking at here?

9 A Those are the firearms in our evidence vault in El Paso,  
10 the ones I took on January 1, 2010.

11 Q And Government's Exhibit 217-2.

12 A Those are the vests that we took from the home in  
13 El Paso, January 13, 2010.

14 Q And 217-3, is this another shot of the vests?

15 A Yes, it is.

16 Q 217-4, also the vests?

17 A Yes, it is.

18 Q 217-16?

19 A This looks like just another shot on the wall with some  
20 of the other firearms that we took into custody that night in  
21 January.

22 Q 217-17, what do we see here?

23 A More of the firearms that we took into custody from the  
24 address in El Paso on January 13, 2010.

25 Q Is that a view of all of the weapons that were put into

1 evidence at the same time?

2 A I believe it is.

3 Q Finally, 217-18.

4 A Just another shot of several of the firearms taken into  
5 custody.

6 Q Now, how many rifles in total did you seize from the  
7 residence on Bella Tierra, on January 13, 2010?

8 A Forty.

9 Q How many ballistic vests in total?

10 A Seven.

11 Q And how many magazines were seized that day?

12 A Eighty.

13 Q Can you describe for the jury what is a magazine?

14 A A magazine holds ammunition that you insert into the  
15 weapon so when you fire it, you can continually feed the  
16 ammunition.

17 Q In the course of your training as an ATF agent, have you  
18 become familiar with different caliber weapons?

19 A Yes, I have.

20 Q Based on your training and experience what are the  
21 characteristics of the types of rifles that you seized that  
22 day?

23 A These rifles were -- I know five of them were  
24 manufactured by a company named Romarm. Thirty-five of them  
25 were manufactured by a company or imported by a company

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1 Century Arms International. They were all 7.62 by  
2 39-millimeter. That's the caliber of the ammunition of the  
3 firearms.

4 Q What did you do after you took these weapons, vests, and  
5 magazines into evidence?

6 A We continued our investigation.

7 Q Did you do anything to document your seizure of these  
8 firearms and vests and magazines?

9 A Yes. We wrote a report, and then we entered each weapon,  
10 vest, and the evidence into our case management system.

11 MS. PARLOVECCHIO: I'm going to show just for the  
12 witness only a document that's marked for identification as  
13 Government's Exhibit 217-68.

14 MR. PURPURA: No objection.

15 MS. PARLOVECCHIO: I would like to offer it into  
16 evidence, Your Honor.

17 THE COURT: Received.

18 (Government Exhibit 217-68, was received in  
19 evidence.)

20 MS. PARLOVECCHIO: Thank you. May I publish,  
21 please.

22 Q Special Agent Williams, what are we looking on the  
23 screen?

24 A These are property status of summary reports.

25 Q Did you create these reports to document your seizure of

Williams - Direct/Parlovecchio

1 the weapons, vests, and magazines?

2 A Yes. They were generated from the information inputted  
3 into our case management system.

4 Q I just want to direct your attention to the top left-hand  
5 corner of the document, where it says value. I'm going to  
6 circle that.

7 What does value signify?

8 A That's the value of what we believe the weapon was either  
9 purchased for or what they are worth in the retail market.

10 Q And approximately how much did you value each of these  
11 weapons at?

12 A At that time it was a thousand dollars for each one.

13 Q Now, you had noted earlier in your testimony that there  
14 were two different types of weapons.

15 What were those two different types?

16 A One was a Romarm. It's just the name of the company.  
17 The other one was a CAI, or Century Arms International.

18 Q I'm going to show you what is in evidence as Government's  
19 Exhibit 217-18. I know you said there were two different  
20 types.

21 Could you just circle for the jury one type of each  
22 weapon that you were just describing.

23 A Yes. I remember the firearms with the fixed wooden  
24 stock, with the Romarm, were manufactured by the Romarm  
25 company; and the ones with the folding stock were manufactured



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1 or imported by CAI.

2 MS. PARLOVECCHIO: I'm just going to note for the  
3 record that the witness has circled the weapon at the bottom  
4 of Government's Exhibit 217-18 and the one towards the very  
5 top on 217-18.

6 Q Now, what's the advantage of having a collapsable stock?

7 A It makes the overall length of the weapon shorter so it's  
8 easier to store, possibly to conceal.

9 Q Special Agent Williams, I'm going to ask you to come up  
10 to the witness stand.

11 MS. PARLOVECCHIO: I apologize, Ms. Clark.

12 Q Special Agent Williams, I'm going to ask you to examine  
13 the exhibits that are in the cart on the left-hand side there.  
14 That's Government's Exhibits 217-20 through 217-60.

15 Are you familiar with -- did you have the  
16 opportunity to examine these before you came to court today?

17 A Yes, I did.

18 Q What do you recognize these weapons to be?

19 A These are like the weapons we took into custody on  
20 January 13, 2010.

21 MS. PARLOVECCHIO: The government moves to admit  
22 Government Exhibits 217-20 to 217-60.

23 MR. PURPURA: No objection.

24 THE COURT: Received.

25 (Government Exhibits 217-20 to 217-60, were received

1 in evidence.)

2 BY MS. PARLOVECCHIO:

3 Q Special Agent Williams, while I have you up here, can you  
4 demonstrate for the jury what one of the Romarm rifles looks  
5 like?

6 A This would be the Romarm.

7 Q By the way, I notice there are some white zip ties on  
8 these weapons.

9 What is the purpose of those?

10 A It's just to keep the bolt partially open. It's a safety  
11 feature so a round can't be inserted and used. So you can  
12 properly store them.

13 Q They can't be fired?

14 A Correct.

15 Q Can you also show us one of the Century or the CAI  
16 weapons, please.

17 Which government exhibit number is that -- I'm  
18 sorry -- on the top?

19 A Number 39.

20 Q Could you demonstrate for the jury what the collapsable  
21 stock looks like?

22 A This is a folding stock. It has the tie so I can't pull  
23 it forward. This is it, and I would pull.

24 Q Thank you. Can you just be clear: All these have been  
25 made safe, correct?

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1 A Yes.

2 Q Now, I want to direct your attention to the cart on the  
3 right and the bottom items, Government Exhibit's 217-61 to  
4 217-67.

5 Had you examined these before you came to court  
6 today?

7 A Yes, I looked at them.

8 Q What do you recognize them to be?

9 A They -- I recognize them to be the same vests we took  
10 from the residence on January 13, 2010.

11 MS. PARLOVECCHIO: The government moves to admit  
12 Government Exhibits 217-61 to 217-67.

13 MR. PURPURA: No objection.

14 THE COURT: Received.

15 (Government Exhibits 217-61 to 217-67, were received  
16 in evidence.)

17 Q If you could pick one of those vests up, Special Agent  
18 Williams, and display it to the jury, please.

19 A There are two. They are connected.

20 Q About how much would you estimate those vests weigh?

21 A Anywhere from around ten, fifteen pounds. Some of them  
22 maybe more.

23 Q What gives the vest that weight?

24 A I believe it's Kevlar, and some of them have a -- I  
25 believe it's Kevlar inside. I don't know for certain, but,

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1 and some of the other vests have a heavier material, strike  
2 plate.

3 Q I'm going to ask you to open Government Exhibit 217-69,  
4 which is that big cardboard box.

5 What do you see inside there?

6 A Several ammunition magazines.

7 Q Are these the same magazines that you seized on  
8 January 13, 2010?

9 A Yes.

10 MS. PARLOVECCHIO: The government moves to admit  
11 Government Exhibit 217-16.

12 MR. PURPURA: No objection.

13 THE COURT: Received.

14 (Government Exhibit 217-16, was received in  
15 evidence.)

16 MS. PARLOVECCHIO: You may return to the witness  
17 stand. Thank you.

18 Q Special Agent Williams, who, if anyone, was arrested as a  
19 result of this seizure of these weapons, vests, and  
20 ammunition?

21 A Alberto Sandoval.

22 Q Did you continue your investigation after seizing these  
23 weapons?

24 A Yes, I did.

25 Q What, if anything, did you do?

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1 A We -- I worked with other agencies, but we conducted  
2 witness interviews, at least one or two occasions surveillance  
3 operation, and we also submitted those weapons for entrance  
4 into our national integrated ballistic information system just  
5 for testing.

6 Q You testified that you partnered with other agencies.

7 Who are the agencies that you partnered with?

8 A Homeland Security Investigations and the DEA.

9 Q What, if any, drug trafficking organization became the  
10 focus of your investigation?

11 A The Sinaloa Cartel.

12 Q What individuals in particular became the targets of your  
13 investigation?

14 MR. PURPURA: Objection.

15 THE COURT: Overruled.

16 A It was Rudy Briseno, Edgar Galvan, and then Jose Antonio  
17 Marrufo, also known as Jaguar.

18 Q I'm going to show you what's marked for identification as  
19 Government's Exhibit 109.

20 What is this?

21 A This is Edgar Galvan.

22 Q How do you recognize him?

23 A From the photograph, and, also, as part of our  
24 investigation we saw him.

25 MS. PARLOVECCHIO: The government moves to admit

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1 Government Exhibit 109.

2 MR. PURPURA: No objection.

3 THE COURT: Received.

4 (Government Exhibit 109, was received in evidence.)

5 MR. PURPURA: May I publish?

6 THE COURT: Yes.

7 Q This is who you identified as Edgar Galvan?

8 A Yes.

9 Q I want to show you what's marked for identification as  
10 Government's Exhibit 71.

11 Who do you recognize this to be?

12 A Looks like Jose Antonio Marrufo.

13 Q How do you recognize him?

14 A A picture I have seen before and through witness  
15 identification.

16 MS. PARLOVECCHIO: The government moves to admit  
17 Government Exhibit 71.

18 MR. PURPURA: No objection.

19 THE COURT: Received.

20 (Government Exhibit 71, was received in evidence.)

21 (Continued on the next page.)

22

23

24

25

WILLIAMS - DIRECT - PARLOVECCHIO

1 DIRECT EXAMINATION

2 BY MS. PARLOVECCHIO:

3 Q And Special Agent Williams, this is the individual you've  
4 also identified as having the alias Jaguar?

5 A Yes.

6 MS. PARLOVECCHIO: Thank you, Special Agent  
7 Williams.

8 I have no further questions.

9 THE COURT: Any cross?

10 MR. PURPURA: No cross. Thank you.

11 THE COURT: You may step down.

12 The government's next witness?

13 MR. NARDOZZI: The government calls Max Kingery.

14 THE COURTROOM DEPUTY: Please raise your right hand.

15 (Witness sworn.)

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WILLIAMS - DIRECT - PARLOVECCHIO

1 MAX MASON KINGERY, called as a witness, having been first duly  
2 sworn/affirmed, was examined and testified as follows:

3 THE WITNESS: I do.

4 THE COURTROOM DEPUTY: Please state and spell your  
5 name for the record.

6 THE WITNESS: Max Mason Kingery. Last name is  
7 K-I-N-G-E-R-Y.

8 THE COURT: All right. Before you inquire, let me  
9 see counsel at sidebar for a minute.

10 (Sidebar conference.)

11 (Continued on the next page.)  
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SIDEBAR CONFERENCE

1 THE COURT: Defense counsel didn't object, but I'm  
2 not really happy about all the rifles and the vests and all  
3 that -- that may be coming into evidence, but all that sitting  
4 there in front of the jury for the entire trial.

5 Now, I think if we do anything about it at this  
6 stage, it just makes it more noticeable if we wheel it all  
7 out, but during the break take it and don't give me any more  
8 weapons caches like that. You've got the pictures. A picture  
9 tells a thousand words.

10 If you want to bring an exemplar of one of the  
11 rifles, or even the two kinds of rifles, that's okay. You can  
12 show that to the jury. I might even let you show the jury how  
13 they shoot, I don't know, but to have the weapons stationed  
14 there, I think it's unnecessary -- I won't say unduly  
15 prejudicial, I'll say unnecessarily prejudicial.

16 MR. LICHTMAN: Maybe we can --

17 MS. PARLOVECCHIO: May I be heard? Thank you.

18 Your Honor, we don't intend to leave these here for  
19 the rest of the trial. This witness is going to testify  
20 specifically with regard to these. Just for purposes of  
21 efficiency, we haven't moved them out. We're entitled to put  
22 them into evidence because they were seized as part of this  
23 case --

24 THE COURT: You're entitled to subject to my  
25 discretion, frankly. You're entitled, like I said, to put one

SIDEBAR CONFERENCE

1 of each kind into evidence, although I can see an argument for  
2 saying the pictures are enough, you're not entitled to put  
3 even one into evidence, but I couldn't say that. I just don't  
4 like the cart sitting in front of the jury.

5 So after -- you're going to use it for this witness?

6 MS. PARLOVECCHIO: Just for this witness. It's out  
7 of here. We're not intending to leave it for trial. That was  
8 not our intention certainly and we won't bring the whole thing  
9 out during summation. We can have one of each.

10 MR. PURPURA: Your Honor, so the Court doesn't think  
11 the defense is totally asleep --

12 THE COURT: I could see a strategic reason for not,  
13 okay.

14 MR. PURPURA: And I did speak to Mr. Nardozzi as to  
15 does he need these weapons for these witnesses on the stand  
16 and he indicated yes, and that's why we didn't ask him to  
17 remove them immediately.

18 THE COURT: Okay.

19 MR. PURPURA: But we thank the Court, obviously, for  
20 their concern -- your concern.

21 THE COURT: I'm trying to keep the playing field  
22 level.

23 MR. PURPURA: Thank you, Your Honor.

24 (End of sidebar conference.)

25 (Continued on the next page.)

KINGERY - DIRECT - NARDOZZI

1 (In open court.)

2 THE COURT: You may inquire.

3 MR. NARDOZZI: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. NARDOZZI:

6 Q Good afternoon, Mr. Kingery. How are you today?

7 A Good afternoon.

8 Q Mr. Kingery, can you tell the ladies and gentlemen of the  
9 jury, where you're employed.

10 A I'm the chief of the Firearms and Ammunition Technology,  
11 Criminal Branch, with the Bureau of Alcohol, Tobacco, Firearms  
12 and Explosives.

13 Q And can you explain to the ladies and gentlemen of the  
14 jury what that means?

15 A I'm chief of a branch within ATF that classifies firearms  
16 under the Gun Control Act or National Firearms Act and I test  
17 those firearms.

18 Q And what are your specific duties in your role as chief  
19 of that branch?

20 A I supervise the evaluations of firearms by other FEOs and  
21 occasionally I also conduct examinations myself.

22 Q And by supervise, when a firearm is tested by an ATF  
23 agent, are you the person that signs off on their report  
24 classifying a firearm?

25 A Not by an agent, by an FEO; a firearms enforcement

1 officer.

2 Q Okay. Very well. Prior to serving in your role as chief  
3 of the firearms technology branch, what other roles did you  
4 serve within ATF?

5 A Prior to that I was an FEO myself.

6 Q For how long?

7 A I'm sorry?

8 Q For how long?

9 A I've been chief since 2013. Prior to that I joined ATF  
10 in 2005.

11 Q Did you receive any training upon joining ATF in terms of  
12 the classification of firearms?

13 A Yes, I did. I entered in an apprenticeship program to --  
14 I learned to classify firearms. As part of that program I had  
15 to write a series of about 14 or 15 white papers. I had to  
16 disassemble and assemble a number of different types of  
17 firearms, learn their histories, the different types of  
18 operating systems and mechanisms, how firearms are  
19 constructed, the different methods of manufacturing firearms  
20 and firearm parts, and memorize all the different definitions.

21 Q Can you just explain to the ladies and gentlemen of the  
22 jury, what is a white paper?

23 A Basically like a college paper that you write on a  
24 subject, except these particular subjects were each of a  
25 particular firearm.

KINGERY - DIRECT - NARDOZZI

1 MR. PURPURA: Your Honor, will stipulate to the  
2 witness's expertise in the field of firearms.

3 MR. NARDOZZI: Yes. I would just like to ask a  
4 couple of more questions so the jury can understand his  
5 expertise.

6 THE COURT: Go ahead.

7 MR. NARDOZZI: Thank you.

8 Q Sir, can you explain to the ladies and gentlemen of the  
9 jury, have you ever taught any classes or given any lectures  
10 on firearm classifications?

11 A Yes, I have.

12 Q How many times have you done that?

13 A I couldn't count how many. A lot. I've been a guest  
14 speaker at the International Association of Firearms Toolmark  
15 Examiners for the last four years. I've taught in a couple of  
16 foreign countries. I've taught at the National Academy down  
17 in Glynco, Georgia, at Quantico. A number of different  
18 places.

19 Q How many different firearms or sets of firearms have you  
20 tested during your entire time at ATF?

21 A Thousands.

22 MR. NARDOZZI: Your Honor, at this time, without  
23 objection, I'd like to move Mr. Kingery in as an expert in the  
24 field of firearms identification and manufacturing and design.

25 THE COURT: He may testify as to his opinions.

KINGERY - DIRECT - NARDOZZI

1 MR. NARDOZZI: Thank you, Your Honor.

2 BY MR. NARDOZZI:

3 Q Mr. Kingery, first of all, are there different ways that  
4 you test firearms when they come into ATF, when a firearm is  
5 alleged to have been fired versus when a firearm is alleged to  
6 have not been fired?

7 A It really depends upon the type of examination that's  
8 being requested by the agent, and what type of firearm it  
9 might be under, whether it's an NFA firearm or a GCA firearm.

10 Q What does that mean?

11 A GCA is the Gun Control Act and the Gun Control Act  
12 regulates basically all firearms under a single definition of  
13 firearm. And it basically just -- if it shoots, it's a  
14 firearm, in its simplest terms. But also, the National  
15 Firearms Act regulates more dangerous firearms, like machine  
16 guns, sawed-off shotguns and rifles, gadget guns, like pen  
17 guns, or some type of a concealed firearm, like a James Bond  
18 type of a firearm. Destructive devices, such as large canons,  
19 rockets, grenades, bombs, are actually regulated as firearms  
20 under the National Firearms Act.

21 Q When a firearm -- first of all, what is the statute under  
22 which you classify a firearms under the Firearms Act? Do you  
23 know the statute number?

24 A Under the National Firearms Act?

25 Q Yes, sir.

1 A It's 26 United States Code, Section 5845.

2 Q Are there any other statutes that guide the analysis that  
3 you perform at ATF?

4 A The different subsections under that, and then under the  
5 Gun Control Act, is 18 United States Code, Section 921.

6 Q When a firearm is sent to ATF for analysis, and it is not  
7 believed to have been fired previously, how do you test that  
8 firearm for operability?

9 A First we would perform what's called a field function  
10 check. The field function check is simply to manipulate the  
11 firearm manually without any ammunition. You cycle the action  
12 to see how it functions.

13 While you're doing this, you'd be manipulating the  
14 trigger and placing the selector lever in different positions  
15 while you're repeating this cycling the action and  
16 manipulating the trigger. This may tell us whether the  
17 firearm mechanically functions as a machine gun or not and  
18 potentially, if it's broken or damaged, and we might not want  
19 to shoot it, or something like that.

20 Q Okay. Prior to coming here today to testify, were you  
21 asked to review any documentation related to a firearm  
22 seizure?

23 A Yes, I was.

24 MR. NARDOZZI: Your Honor, can I approach the  
25 witness?

KINGERY - DIRECT - NARDOZZI

1 THE COURT: Yes.

2 Q Mr. Kingery, I've handed you what's already in evidence  
3 as Government Exhibit 217-68.

4 MR. NARDOZZI: Placed it on the screen now as well,  
5 ask to publish it to the jury.

6 (Exhibit published.)

7 Q Is this the documentation that you were asked to review?

8 A Yes, it was.

9 Q And did you, in fact, review this documentation?

10 A Yes.

11 Q What were you asked to do with the documentation in front  
12 of you?

13 A I was asked to determine if these firearms would likely  
14 be semi-automatic or machine guns, and if they were  
15 semi-automatic, how they might be converted into machine guns.

16 Q Okay. And in conducting your review, did you prepare a  
17 report based upon your findings?

18 A Yes, I did.

19 MR. NARDOZZI: Your Honor, just for the witness.

20 Q Showing you what's marked as Government  
21 Exhibit 3500-MMK-6, do you recognize this?

22 A Yes.

23 Q Just flipping through. Is that your signature on the  
24 third page?

25 A Yes, sir, it is.



KINGERY - DIRECT - NARDOZZI

1 Q What is this?

2 A This is a memorandum of a report that I produced looking  
3 at these documents and evaluating whether or not these  
4 firearms would likely be semi-automatic or machine guns. It  
5 also describes how easily they might be converted into machine  
6 guns.

7 Q Is this a document that you would prepare or a report  
8 such as this in the regular course of your business in  
9 performing an analysis such as the one you were asked to  
10 perform here?

11 A Yes, sir. It's a routine type of report.

12 MR. NARDOZZI: Your Honor, at this time I'd ask to  
13 move 3500-MMK-6 into evidence.

14 MR. PURPURA: No objection.

15 THE COURT: Received.

16 (Government Exhibit 3500-MMK-6, was received in  
17 evidence.)

18 BY MR. NARDOZZI:

19 Q Mr. Kingery, what conclusions did you reach as you  
20 performed your analysis?

21 A I concluded that these were all semi-automatic or  
22 normally semi-automatic firearms, and that converting them  
23 should be -- they were the type of firearm that are actually  
24 relatively easy to convert into machine guns. Both of them  
25 functioned slightly differently, but the modification steps

1 are relatively similar; simply drill a hole and install a  
2 single part.

3 Q Okay. And I want to talk more about that in a moment.

4 First, what types of firearms were contained in this  
5 report?

6 A In this report, it details AK-type of firearms.  
7 Specifically a WASR 10 and M70 type AKs.

8 Q What does it mean to be an AK type of firearm?

9 A Well, an AK is the original name. AK47 is the original  
10 name for the firearm and then depending upon different  
11 features that that firearm has, or who made it, that might  
12 have a different model name. But it's essentially the same  
13 firearm.

14 Q And how, just generally, do AK type of firearms work?

15 A AK type firearms are fed with a magazine. Usually a  
16 magazine holds 30 rounds and they operate from the closed  
17 bolt, which means the bolt is -- loads the round into -- loads  
18 the cartridge into the chamber and is locked in a closed  
19 position before the firing pin strikes the primer on the  
20 cartridge.

21 When this happens, there's essentially a small  
22 explosion that take place in the chamber behind this bullet,  
23 where the pressure rises to something around 55,000 pounds per  
24 square inch, pushes that projectile down the barrel. At a  
25 certain point along the length of that barrel, there is a hole

1 where a portion of this high-pressure gas is diverted back  
2 into another part of the firearm and presses against a piston.  
3 This piston drives the bolt and bolt carrier backwards,  
4 unlocking the bolt from the chamber. This allows the  
5 cartridge to be extracted and then a spring drives this bolt  
6 and bolt carrier forward again, loading the next round.

7 And depending upon whether it's a semi-automatic or  
8 fully automatic determines what happens after that  
9 mechanically.

10 Q At some time after you prepared your report, did you have  
11 the opportunity to perform a physical inspection of the items  
12 that were listed in the report?

13 A Yes, I did.

14 Q And when was that actually?

15 A Just this week, Tuesday.

16 Q Okay.

17 A Or -- yes, Tuesday. I'm sorry Tuesday.

18 Q Okay. You sure it wasn't yesterday?

19 A Yes, I'm sorry. I'm getting -- I've been here a little  
20 while.

21 Q I know you have.

22 A This is Thursday. Yes, Wednesday.

23 THE COURT: We're all kind of losing track of days  
24 in this case.

25 THE WITNESS: Yes, Your Honor.

KINGERY - DIRECT - NARDOZZI

1 BY MR. NARDOZZI:

2 Q We've all been there, sir.

3 Do you see the items that you performed a physical  
4 inspect on here in the courtroom?

5 A Yes, it appears to be them in the cart there.

6 Q Okay.

7 MR. NARDOZZI: Let the record reflect Mr. Kingery  
8 has indicated physical items 217-20 through 217-60 present in  
9 front of counsel table here in the courtroom.

10 Q Mr. Kingery, can you describe for the ladies and  
11 gentlemen of the jury what the physical inspection you  
12 performed was?

13 A I took out each and every single firearm, there's 40 of  
14 them, and did a field function test, as I explained before.  
15 That test indicated that the firearms functioned  
16 semi-automatically, but also showed me that they had machine  
17 gun parts installed in them, although they didn't function as  
18 machine guns. Then I installed a blank cartridge in each  
19 firearm and fired it to verify that the weapon would actually  
20 function physically to shoot a projectile.

21 Q Did each of the physical items here in the courtroom  
22 217-20 through 217-60 physically firearm when you performed  
23 your test?

24 A Yes.

25 Q Okay. Sir, you talked a moment ago about weapons being

1 made readily convertible. Are these --

2 MR. PURPURA: Your Honor, objection. 401 at this  
3 point.

4 THE COURT: Yes, overruled.

5 BY MR. NARDOZZI:

6 Q Sir, first of all, do these weapons classify as firearms  
7 under the statute?

8 A They do, yes.

9 Q Do they classify as machine guns under the statute?

10 A No, they do not.

11 Q Okay. So that means that they are semi-automatic  
12 weapons?

13 A Yes, sir.

14 Q When you talked about weapons being made readily  
15 convertible, that's convertible to an automatic weapon?

16 A Yes, sir.

17 Q That would qualify as a machine gun, right, an automatic  
18 weapon?

19 A If it had been converted, yes.

20 Q Correct. How would -- we can go by individual model, if  
21 there is a difference. But how would these particular weapons  
22 be converted to an automatic weapon from a semi-automatic  
23 weapon?

24 A There's two different methods that are used -- that could  
25 be used to convert these into automatic weapons. The first

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1 one is actually not very reliable. It involves changing the  
2 physical geometry of the hammer on this firearm. The hammer  
3 has a ledge on it that is captured by what looks like a claw.  
4 We call it a disconnecter. And the angle of the face of this  
5 hammer to this claw is basically 90 degrees.

6 If you file on that to change that angle at exactly  
7 the right point, and the exact angle, what will happen is that  
8 disconnecter, when it grabs the hammer, instead of stopping  
9 it, it will grab it, but then not be able to fully hold it.  
10 So the hammer slowly releases. If you get that angle wrong,  
11 it will just slide right off and won't cause any delay  
12 whatsoever. Or, if you don't get it enough, then the  
13 disconnecter doesn't disconnect.

14 The reason you need a delay in this is there's a  
15 projection on the back of the bolt carrier that covers the  
16 firing pin until the bolt and bolt carrier are completely  
17 closed and locked. So if the hammer were to move forward  
18 before that occurs, it would strike the back of the bolt  
19 carrier, instead of the back of the firing pin. So if you do  
20 this modification wrong, basically, it doesn't shoot.

21 If you do it right, it will shoot as a machine gun  
22 and it will always be a machine gun. That is, it will only be  
23 safe or a machine gun. It will not be a semi-automatic  
24 firearm.

25 Q How difficult is it to perform this modification?

1 A Not very difficult at all. A simple hand file will do  
2 the modification. You just have to know where to apply it.

3 Q For an individual who had the knowledge of where to apply  
4 that hand file, how long would it take to perform this  
5 modification?

6 A A few seconds.

7 Q Is there any additional hardware that's necessary in  
8 these firearms that would be required for this type of  
9 modification?

10 A Not that type of modification, no.

11 Q Is there any other type of modifications that would  
12 require additional hardware to be installed in these firearms?

13 A Yes. The second modification would actually be to make  
14 it into a machine gun, modify the receiver, so it's actually a  
15 machine gun receiver. That would allow a person to install  
16 what we call the machine gun auto sear into the firearm.

17 This machine gun auto sear is a part that causes the  
18 delay that I mentioned before, but causes it in a very  
19 reliable manner, and it also does it in such a way that the  
20 weapon is turned into a select fire machine gun. So that I  
21 can select either semi-automatic mode of operation, or full  
22 auto mode of operation.

23 This is done by drilling a hole at a certain  
24 location in front of the hammer pin, and installing a part  
25 that -- it's a -- the machine gun auto sear and its spring

1 together cost about 15, \$16. It's, by itself, is an  
2 unregulated item. It's not until you actually modify this  
3 receiver that it becomes a regulated item. Then you can just  
4 install that.

5 It actually takes a little bit longer to install  
6 that because you have to take all the other parts out first.  
7 That takes about two minutes or so. Then another two to three  
8 minutes to put it all back in. So five minutes total, you've  
9 got a very reliable machine gun.

10 Q Five minutes, \$16?

11 A Yes.

12 Q Okay. So for a person that understands how to do this,  
13 they could do it relatively easily.

14 Can you explain to the jury what the difference is  
15 between a regular gun, and a machine gun; a semi-automatic,  
16 versus automatic?

17 A Well, in the machine gun, with the auto sear in place,  
18 your selector lever is moved to the automatic position. It  
19 disengages the disconnecter. So the disconnecter will not  
20 capture the hammer and instead, this machine gun auto sear  
21 will capture the hammer. It has a leg on it that sticks up  
22 above the bolt guide rail and as the bolt is moving forward to  
23 its closed position, it hits that lever, which causes the auto  
24 sear to release the hammer at just the right moment, so that  
25 the hammer strikes the firing pin when the bolt's closed.



1           And this will continue -- this cycle of operation  
2 will continue until the weapon either breaks, or runs out of  
3 ammunition, or you let go of the trigger.

4       Q     Okay. So in simpler terms, if I take a semi-automatic  
5 weapon and I pull the trigger once and I hold it down -- with  
6 the semi-automatic weapon, if I pull the trigger once and I  
7 hold it down, what happens?

8       A     It will fire one shot. It will eject that cartridge and  
9 load the next one. Then the hammer will stay cocked until you  
10 release the trigger and pull it again.

11      Q     With an automatic weapon or a machine gun, if I pull the  
12 trigger once, and I hold it down, what happens?

13      A     It keeps on shooting, as I said, until the magazine's  
14 empty.

15      Q     Okay. I want talk about some of the items that you  
16 tested briefly, and then also talk about some other weapons  
17 that you've either heard about in testimony here in court, or  
18 may hear about.

19           MR. NARDOZZI: Can we have a couple of lapel mics?

20      Q     Mr. Kingery, can you come down from the stand and  
21 approach.

22      A     Yes.

23      Q     All right. So there were two separate types of firearms  
24 recovered. Can you identify for the jury the two different  
25 types of firearms that were recovered out of that mess of

1 firearms there?

2 A Yes. We have the M70 --

3 MR. PURPURA: Objection. This is -- I apologize.  
4 We just did this.

5 THE COURT: Well, we did it in words. Now we're  
6 about to do in it pictures.

7 MR. PURPURA: No, the last witness, actually,  
8 Judge --

9 MR. NARDOZZI: Your Honor, this is an expert  
10 witness --

11 THE COURT: Stop. Stop.

12 He may do something different than the last witness  
13 did, illustrating the testimony he gave, which the last  
14 witness did not.

15 Go ahead.

16 BY MR. NARDOZZI:

17 Q All right, sir. Can you tell us -- and hold it up for  
18 the jury so they can see -- what kind of firearm that is?

19 A This is an AK type, it's an M70 AB2.

20 Q Where is that manufactured?

21 A This is manufactured in Yugoslavia, for an American  
22 importer, Century Arms.

23 Q Okay. And just hold up the other one for us.

24 A I'm sorry?

25 Q The other type of firearm for us.

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1 THE COURT: So far we're not moving on anything that  
2 wasn't done with the last witness. We know there's two kinds  
3 of firearms, we know who manufactures them.

4 What do you want him to show the jury?

5 MR. NARDOZZI: Your Honor, you know what? I'll move  
6 on. I can see the Court is eager to get going.

7 Q Why don't we put that down and let's move over to the  
8 demonstrative exhibits that we have here. You can open that  
9 box.

10 All right. So first, I want you to pick up what's  
11 marked as Government Exhibit 217-76.

12 MR. NARDOZZI: And, Your Honor, for the Court's  
13 edification, we have photographs of each of these  
14 demonstrative weapons that I'd ask to move into evidence.  
15 These are simply for here in court today.

16 THE COURT: Okay. That's fine.

17 MR. NARDOZZI: Thank you.

18 This is Government Exhibit 217-76.

19 Q Can you tell the ladies and gentlemen of the jury what  
20 this is?

21 A This is an M16, simply M16A1.

22 Q Is it similar -- there's other guns in the M series, like  
23 an M4, what makes an M16 different than, say, an M4?

24 A Yes. M4 and M16 are essentially the same weapon. The  
25 only real difference, the M4 has a shorter and heavier barrel

1 and will have a different buffer inside the buffer tube here.

2 Q Is the M16 a semi-automatic weapon by nature or an  
3 automatic weapon?

4 A M16s are automatic firearms by nature.

5 Q Okay. And in this firearm that you're holding up here  
6 for the ladies and gentlemen of the jury, half of the weapon  
7 is actually basically cut off, correct?

8 A Yes.

9 Q Can you explain, using this example which shows the  
10 insides of the weapon, how an M16 works?

11 A Yes. Can I approach?

12 The way this firearm works, this is our bolt carrier  
13 and this is the bolt right in here. And when you pull the  
14 charging handle, the bolt comes back past the magazine, allows  
15 it to pick up a cartridge. When it's released this bolt and  
16 bolt carrier move forward. They will load the cartridge into  
17 the chamber, which is right here, and then when you pull the  
18 trigger, right here -- yes, this won't fire.

19 I place the selector in the semi-automatic position.  
20 When I pull the trigger, the hammer is released. You all  
21 heard that. This piece here, the hammer, flies forward,  
22 strikes the firing pin. The firing pin looks kind of like a  
23 golf tee basically. It's about this long and it's going to  
24 strike the primer of the cartridge that sets off this chain  
25 reaction. The primer has explosives in it that causes the

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1 powder in that cartridge to burn. That powder burns at an  
2 extremely fast rate, which is essentially another explosion,  
3 forces the bullet down the barrel here.

4 As that is happening, the gas, as I mentioned  
5 earlier, is pushing that bullet, it's under high pressure, and  
6 it will pass an opening and is diverted back up this way and  
7 then back down the cylinder towards the bolt carrier.

8 Now, this weapon works slightly differently than the  
9 AK type, in that this uses what's known as direct gas  
10 impingement, which is the gas would strike directly on to the  
11 bolt carrier and the bolt. And they essential become the  
12 piston and are driven backwards, as you'll see with the AK, as  
13 a piston in front of it in between the gas and this bolt  
14 carrier.

15 Essentially the machine gun version or the machine  
16 gun setting is going to work the same, the automatic setting.  
17 You cock the bolt, rotate the selector lever, and the selector  
18 lever is on the opposite side here, it's going to rotate it to  
19 the auto position. In this weapon, this hole right here is  
20 where I have to drill to -- or I would have had to drill if it  
21 was semi-automatic, but the hole is already here. It has the  
22 pivot pin for our machine gun auto sear.

23 This time when I pull the trigger, you wouldn't have  
24 seen it, but this is our disconnecter. The disconnecter has  
25 moved backwards about a thousandths of an inch. It is a very

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1 small amount, but it is just enough so that it's not going to  
2 capture the hammer.

3 So the hammer falls, this explosive reaction takes  
4 place, the bolt and bolt carrier want to come backwards. The  
5 bolt is cocked, but now it's simply being held by the  
6 disconnecter itself by the auto sear, so when the bolt goes  
7 all the way forward, it goes all the way forward, the hammer  
8 is automatically tripped and released.

9 This will strike that primer and this operation will  
10 continue until I release the trigger.

11 Q Now, with that type of a weapon, you mentioned that the  
12 projectile feed comes from a magazine, correct?

13 A Yes.

14 Q Is there a standard size of magazine, or are there  
15 multiple different sizes of magazines?

16 A There's multiple difference sizes.

17 Q So what's the significance of the fact that there's  
18 multiple sizes of magazines? What does a bigger magazine  
19 mean?

20 A Just that it can shoot more ammunition.

21 Q Because it can hold more projectiles?

22 A Yes.

23 Q Very well. Is there a maximum size of a magazine that  
24 you're aware of?

25 A The largest one I know of is called a Century. It's a

1 hundred round magazine.

2 Q Okay.

3 A Not for this weapon.

4 Q And this weapon, we've called it an M16. Is this made by  
5 a particular manufacturer or is this a model that's  
6 manufactured by multiple companies?

7 A There are today hundreds of manufacturers that make the  
8 M16 type of weapon. There is really only three gun  
9 contractors that make it in a machine gun version right now.  
10 Colt, FN and --

11 THE COURT: That's all right if you don't remember  
12 the third. I think --

13 THE WITNESS: Yeah, I don't remember the third one.

14 THE COURT: I think we've got all the details we  
15 need.

16 MR. NARDOZZI: Thank you, Your Honor.

17 MR. PURPURA: May counsel approach the bench  
18 briefly?

19 THE COURT: Yes.

20 (Sidebar conference.)

21 (Continued on the next page.)

22

23

24

25

SIDEBAR CONFERENCE

1 THE COURT: Are we done with the demonstration?

2 MR. PURPURA: That's what I'm going to object to.

3 At this point, what's next is a rocket launcher for  
4 demonstration purposes. It's really big. I'm looking at it  
5 right now --

6 THE COURT: That's what you're going to do?

7 MR. NARDOZZI: Your Honor, this is evidence that is  
8 going to come into the record in this case. We just recovered  
9 three RPGs --

10 THE COURT: That's to be determined.

11 MR. NARDOZZI: Well, your Honor, we just recovered  
12 three RPGs.

13 THE COURT: Right. So what do you need to do with  
14 those?

15 MR. NARDOZZI: I want to show the jury how a rocket  
16 launcher works because there will be -- this is subject to  
17 connection, there is testimony coming in this trial about use  
18 of rocket launchers during incursions with rival cartels. It  
19 may not be convenient for Mr. Guzman, but it's evidence that's  
20 going to come in the case.

21 THE COURT: Please don't be sarcastic with me. I  
22 can't have a demonstration of an RPG in the level of detail  
23 that you just gave with respect to the M16. You can have him  
24 walk through and show how it works. But how it works is very  
25 simple: You put in the RPG into the launcher and pull the



SIDEBAR CONFERENCE

1 trigger. Now, I understand he's an expert he's got to say a  
2 little more than that, but he doesn't have to say much more  
3 than that. You do not go in to the level of detail that you  
4 did with the M16. This is not a weapons show, this trial,  
5 okay.

6 Now, I think most Americans understand the term  
7 "RPG." They know what it means. They don't know how it  
8 works, but they know what it looks like. They've seen enough  
9 movies where it takes off. So it requires a minimal  
10 demonstration.

11 MR. NARDOZZI: Understood, Your Honor. But we are  
12 asking this jury to consider the facts that are presented in  
13 this case. That's why we feel it's important to show how  
14 those weapons work.

15 THE COURT: Yes, well, I'm telling you what facts  
16 are going to be presented in this case. So do it my way,  
17 please.

18 MR. NARDOZZI: Thank you, Your Honor.

19 THE COURT: Go ahead.

20 (End of sidebar conference.)

21 (Continued on the next page.)  
22  
23  
24  
25

KINGERY - DIRECT - NARDOZZI

1 MR. NARDOZZI: Thank you, Your Honor.

2 (In open court.)

3 BY MR. NARDOZZI:

4 Q Mr. Kingery, you're picking up what's marked as  
5 Government Exhibit 78.

6 A Yes.

7 Q Let me pick up the part for you.

8 You're holding what's marked as Government  
9 Exhibit 78.

10 A Yes.

11 Q Can you tell the ladies and gentlemen of the jury what  
12 that is?

13 A This is the RPG-7. RPG stands for rocket-propelled  
14 grenade and the 7 is the seventh model.

15 Q Which part is the rocket -- the projectile portion?

16 A This one in my left hand.

17 Q Okay. And of course this is not a live grenade, correct?

18 A No, it's not.

19 Q And the part in your other hand -- you can put that down,  
20 sir.

21 The item that you're holding in your hand now, what  
22 is this?

23 A This is the launcher for that grenade.

24 Q And I see, sir, we have a cross section of this open on  
25 the side that's facing the jury.

1 A Yes.

2 Q Can you just very briefly explain to the jury how this  
3 firearm works.

4 THE WITNESS: Yes. I can approach again, Your  
5 Honor.

6 THE COURT: Yes.

7 A Basically the rocket sits inside this tube and you'll  
8 notice in the front -- I won't point it at you -- but there is  
9 a little notch right here. That's the indexing notch so that  
10 the rocket is pointed the right way. On the bottom of the  
11 rocket is a firing pin and a primer, just like a rifle  
12 cartridge, or pistol cartridge. And this trigger, you pull  
13 this trigger and the hammer will swing up strike the -- strike  
14 this firing pin, the firing pin inside here will strike the  
15 primer on the bottom of the rocket, that ignites the, what's  
16 known as the launching stage of the rocket, or the initial  
17 stage. This throws the rocket out away from you. Then the  
18 main or flight motor, the main stage of the rocket ignites.

19 So its initial flight is still relatively powerful,  
20 but the rocket is only moving about a hundred or so meters a  
21 second. After that, when the main motor kicks in, it's moving  
22 around 3, 350 meters a second; a lot faster.

23 Q How far can the projectile that's associated with this  
24 weapon travel?

25 A It's capable of traveling about 1100 meters, but most of

KINGERY - DIRECT - NARDOZZI

1     them have a mechanism in them that causes them to  
2     self-destruct at about 900 meters.

3     Q     What is the effect of that projectile? What does it do  
4     upon impact?

5     A     Well, there are several different type of projectiles.  
6     One that we had demonstrated here was the shaped charge.  
7     That's the most common one that you would see with this  
8     launcher. The shaped charge is capable of penetrating armor  
9     anywhere from 30 millimeters to 100, depending on the  
10    particular warhead, to about 150 millimeters of armor, which  
11    is, if I do my conversion, around six inches of armor.

12           So a six-inch solid steel wall, this would blow a  
13    hole through it.

14    Q     And based upon what you just said, would it also be  
15    something that could help to stop or disable a vehicle?

16    A     Yes, it certainly would.

17    Q     All right. You can put that down, sir. Thank you. You  
18    can go back to the stand as well.

19           MR. NARDOZZI: Your Honor, I ask to move into  
20    evidence Government's Exhibit 217-76 and 217-78, the  
21    photographs associated with the demonstratives.

22           MR. PURPURA: No objection to the photos.

23           THE COURT: Received.

24           (Government Exhibits 217-76 and 217-78, were  
25    received in evidence.)

1 THE COURT: We'll take your mic back, sir.

2 BY MR. NARDOZZI:

3 Q Okay. Sir, I have one more set of questions for you for  
4 a weapon that we don't have a demonstrative for.

5 Are you familiar with the 40-millimeter grenade  
6 launcher?

7 A Yes.

8 Q Can you just tell us briefly what that is and how it  
9 works?

10 A Well, a 40-millimeter grenade launcher -- there is  
11 actually several different models but they all work  
12 identically. They propel a grenade that's encased, looks like  
13 a giant pistol cartridge, basically. And they propel this or  
14 launch this grenade at varying distances, depending upon the  
15 power of the cartridge, and there are several different types  
16 of warheads with this grenade, just like with the rocket on  
17 the RPG-7.

18 When a grenade is launched, it rotates and that  
19 sets, that rotating action sets the fuse inside the grenade.

20 Q When you say a giant pistol cartridge, for the folks that  
21 are not familiar, what shape is a pistol cartridge?

22 A Let's see. I don't really have a -- if I could draw it.  
23 Basically it's a round-nosed projectile that's got straight,  
24 flat sides.

25 Q Would you agree -- that's very good.

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1 Sir, I don't have any further questions for you.

2 THE COURT: Any cross?

3 MR. PURPURA: No questions.

4 THE COURT: I have one question.

5 The grenade launcher, is that like one of those hawk  
6 weapons with the huge cylinder? Is that part of the --

7 THE WITNESS: That's one model of the 40 millimeter,  
8 yes, Your Honor.

9 THE COURT: Thank you very much.

10 You may step down.

11 (Witness excused.)

12 THE COURT: Does the government have next witness,  
13 short or long?

14 MR. NARDOZZI: Your Honor, in the spirit of the  
15 season the government is out of witnesses.

16 THE COURT: Oh. Looks like you're going home a  
17 little early, ladies and gentlemen. Again, I'm sure you're  
18 disappointed.

19 You know, the advice I've given you every night, I  
20 know you know by heart, but I can't stress to you how  
21 important it is, and I get concerned because it's kind of like  
22 when people go on an airplane and the flight attendants show  
23 them how to fasten their seat belts, and use their oxygen  
24 masks, and anyone who has flown more than a few times, pretty  
25 much stops listening because they think they know it and it's

1 when you think you know something that the danger is really  
2 there.

3 So I thought before I send you home for the holiday,  
4 I would give you a little context on why it's so important,  
5 and the reason that we give you these directions.

6 The jury system evolved over time, kind of like the  
7 way animals evolved. But when it started back in about 900 in  
8 England, every place was a small village. And when people  
9 were called to serve on the jury, they had -- in order to be  
10 qualified for the jury, you had to know the defendant  
11 personally. Because the thinking was, well, who better to  
12 judge the defendant than the people who know him personally.

13 Now, as cities got bigger, and that became  
14 impossible, it changed completely to the system we have today  
15 where we want the jurors to know nothing about the case, other  
16 than what happens in the courtroom. And that's why I make a  
17 point of telling you and why it's in your very important oath  
18 every day that you stay away from the media and you not  
19 communicate about the case, and especially at this stage of  
20 the case. I'm certainly not going to threaten anyone with  
21 consequences, because you've all been great. You've been  
22 paying close attention. I know you're listening to me.  
23 You're listening to the witnesses. So I don't need to do  
24 that, but I do want to emphasize there have been other cases  
25 with less diligent juries where there have been consequences

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1 to jurors for not following those very specific directions.

2 So again, media, stay away. Conversations with  
3 family, friends about the case, stay away. Research about the  
4 case, stay away. This is not 900AD England where we want you  
5 to go out and bring in your knowledge here. We want you to  
6 have only what we give you in here. That's what our jury  
7 system does today.

8 Other than that, for those of you who are  
9 celebrating holidays, and I expect most or all of you are,  
10 please enjoy them very much.

11 Our first day, remember back here, so there is no  
12 confusion, is going to be a week from next Thursday. That is  
13 January 3rd, all right?

14 So everyone, please enjoy your holidays. The  
15 parties and I want to thank you so much for the riveting  
16 attention that you've given all the testimony, and we know  
17 you're going to do that when we come back to conclude the case  
18 after the new year. Thank you again.

19 (Jury exits courtroom.)

20 (In open court, jury not present.)

21 THE COURT: Okay. Have a seat for a minute. Just a  
22 couple of things I want to mention.

23 First, I think on the Monday we get back, it's not  
24 too soon to suggest that the government may want to give me  
25 some draft jury instructions. I'm not going to insist on it



1 the day after New Years, but maybe by Friday of that week, if  
2 not the following Monday. My goal is to get the government's  
3 proposed charge enough in advance of the end of the evidence  
4 so that the defendant has a week to put in any response to it.  
5 You know how your case is going, you can work out that timing  
6 yourself.

7 I don't feel a need for anybody to give me the  
8 boilerplate instructions, you know, the first part and third  
9 part of the typical charge we give in this courthouse. I am  
10 interested in seeing CCE type instructions and what's proposed  
11 for that.

12 The defendants typically don't give me a complete  
13 counterproposal, they just give me particular things they want  
14 or particular objections to the government's charge. But you  
15 can give me whatever you want. That's entirely up to the  
16 defense counsel.

17 The other thing is there was mention in one of the  
18 government's letters about because the indictment has changed  
19 form over time, given a redacted or renumbered version of the  
20 indictment. If I read the letter correctly, it suggested that  
21 maybe my chambers would do that. We're not doing that. You  
22 are going to do that.

23 MS. PARLOVECCHIO: Yes. We can do that, Your Honor.  
24 It's not a problem.

25 THE COURT: It's just the way you wrote it, it

1     sounded like, oh, Judge, you can do this. Now I am thinking  
2     you can do this.

3             MS. PARLOVECCHIO: We'll be happy to do that.

4             THE COURT: Okay. Other than that, everyone have a  
5     good holiday and I will see you January 3rd.

6             Something else, Ms. Parlovecchio?

7             MS. PARLOVECCHIO: A housekeeping matter, Your  
8     Honor.

9             THE COURT: Okay.

10            MS. PARLOVECCHIO: Just a few corrections to the  
11     exhibit numbers that were put in the record.

12            THE COURT: Go ahead.

13            MS. PARLOVECCHIO: The first one is, I believe there  
14     was 703-A6 that was put into evidence. That is not correct.  
15     The disk that was put into evidence is 703-A, as in apple.

16            Yesterday, there was on cross-examination of  
17     Mr. Flores, the defense used a disk which we had incorrectly  
18     given them the wrong exhibit number. It's actually  
19     Government's Exhibit 705-C, that was the Rolling Stone clip,  
20     and the clip began at 9:28.

21            Then we also have a supplemental stipulation to read  
22     into evidence.

23            THE COURT: Not now.

24            MS. PARLOVECCHIO: Or which we can --

25            THE COURT: With the jury, right?

PROCEEDINGS

1 MS. PARLOVECCHIO: We can put it in front of the  
2 jury. That's fine.

3 THE COURT: Right? Doesn't it have to be in front  
4 of the jury.

5 MS. PARLOVECCHIO: Yeah, we should do it in front of  
6 the jury. So we'll do it when we come back --

7 THE COURT: That's fine.

8 MS. PARLOVECCHIO: -- two weeks from today.

9 THE COURT: Anything from the defense?

10 MR. PURPURA: No, thank you, Your Honor.

11 THE COURT: Okay. Good holiday, everyone.

12 MS. PARLOVECCHIO: Happy holidays.

13 MR. PURPURA: Thank you.

14 (Whereupon, the trial adjourned at 3:00 p.m. to  
15 resume Thursday, January 3, 2019 at 9:30 a.m.)  
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